

REFERENCE TITLE: **DUI; transportation network drivers**

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1025

Introduced by
Senator Kavanagh: ; Representative Terech

AN ACT

AMENDING SECTION 28-1381, 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 28-1381, Arizona Revised Statutes, is amended to
3 read:

4 28-1381. Driving or actual physical control while under the
5 influence; trial by jury; presumptions; admissible
6 evidence; sentencing; time limitation; violation;
7 classification

8 A. It is unlawful for a person to drive or be in actual physical
9 control of a vehicle in this state under any of the following
10 circumstances:

11 1. While under the influence of intoxicating liquor, any drug, a
12 vapor releasing substance containing a toxic substance or any combination
13 of liquor, drugs or vapor releasing substances if the person is impaired
14 to the slightest degree.

15 2. If the person has an alcohol concentration of 0.08 or more
16 within two hours of driving or being in actual physical control of the
17 vehicle and the alcohol concentration results from alcohol consumed either
18 before or while driving or being in actual physical control of the
19 vehicle.

20 3. While there is any drug defined in section 13-3401 or its
21 metabolite in the person's body.

22 4. ~~If the vehicle is a commercial motor vehicle that requires a~~
23 ~~person to obtain a commercial driver license as defined in section 28-3001~~
24 ~~and~~ the person has an alcohol concentration of 0.04 or more **AND EITHER OF**
25 **THE FOLLOWING APPLIES:**

26 (a) **THE VEHICLE IS A COMMERCIAL MOTOR VEHICLE THAT REQUIRES A**
27 **PERSON TO OBTAIN A COMMERCIAL DRIVER LICENSE AS DEFINED IN SECTION**
28 **28-3001.**

29 (b) **THE VEHICLE IS A TRANSPORTATION NETWORK COMPANY VEHICLE AS**
30 **DEFINED IN SECTION 28-9551 AND THE PERSON IS OPERATING THE VEHICLE AS A**
31 **TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN SECTION 28-9551.**

32 B. It is not a defense to a charge of a violation of subsection A,
33 paragraph 1 of this section that the person is or has been entitled to use
34 the drug under the laws of this state.

35 C. A person who is convicted of a violation of this section is
36 guilty of a class 1 misdemeanor.

37 D. A person using a drug as prescribed by a medical practitioner
38 who is licensed pursuant to title 32 and who is authorized to prescribe
39 the drug is not guilty of violating subsection A, paragraph 3 of this
40 section.

41 E. In any prosecution for a violation of this section, the state
42 shall allege, for the purpose of classification and sentencing pursuant to
43 this section, all prior convictions of violating this section, section
44 28-1382 or section 28-1383 occurring within the past thirty-six months,
45 unless there is an insufficient legal or factual basis to do so.

1 F. At the arraignment, the court shall inform the defendant that
2 the defendant may request a trial by jury and that the request, if made,
3 shall be granted.

4 G. In a trial, action or proceeding for a violation of this section
5 or section 28-1383 other than a trial, action or proceeding involving A
6 PERSON driving or being in actual physical control of a commercial MOTOR
7 vehicle OR INVOLVING A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN
8 SECTION 28-9551 WHO IS DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A
9 TRANSPORTATION NETWORK COMPANY VEHICLE AS DEFINED IN SECTION 28-9551, the
10 defendant's alcohol concentration within two hours of the time of driving
11 or being in actual physical control as shown by analysis of the
12 defendant's blood, breath or other bodily substance gives rise to the
13 following presumptions:

14 1. If there was at that time 0.05 or less alcohol concentration in
15 the defendant's blood, breath or other bodily substance, it may be
16 presumed that the defendant was not under the influence of intoxicating
17 liquor.

18 2. If there was at that time in excess of 0.05 but less than 0.08
19 alcohol concentration in the defendant's blood, breath or other bodily
20 substance, that fact shall not give rise to a presumption that the
21 defendant was or was not under the influence of intoxicating liquor, but
22 that fact may be considered with other competent evidence in determining
23 the guilt or innocence of the defendant.

24 3. If there was at that time 0.08 or more alcohol concentration in
25 the defendant's blood, breath or other bodily substance, it may be
26 presumed that the defendant was under the influence of intoxicating
27 liquor.

28 H. Subsection G of this section does not limit the introduction of
29 any other competent evidence bearing on the question of whether or not the
30 defendant was under the influence of intoxicating liquor.

31 I. A person who is convicted of a violation of this section:

32 1. Shall be sentenced to serve not less than ten consecutive days
33 in jail and is not eligible for probation or suspension of execution of
34 sentence unless the entire sentence is served.

35 2. Shall pay a fine of not less than \$250.

36 3. May be ordered by a court to perform community restitution.

37 4. Shall pay an additional assessment of \$500 to be deposited by
38 the state treasurer in the prison construction and operations fund
39 established by section 41-1651. This assessment is not subject to any
40 surcharge. If the conviction occurred in the superior court or a justice
41 court, the court shall transmit the assessed monies to the county
42 treasurer. If the conviction occurred in a municipal court, the court
43 shall transmit the assessed monies to the city treasurer. The city or
44 county treasurer shall transmit the monies received to the state
45 treasurer.

1 5. Shall pay an additional assessment of \$500 to be deposited by
2 the state treasurer in the public safety equipment fund established by
3 section 41-1723. This assessment is not subject to any surcharge. If the
4 conviction occurred in the superior court or a justice court, the court
5 shall transmit the assessed monies to the county treasurer. If the
6 conviction occurred in a municipal court, the court shall transmit the
7 assessed monies to the city treasurer. The city or county treasurer shall
8 transmit the monies received to the state treasurer.

9 6. If the violation involved intoxicating liquor, shall be required
10 by the department, on report of the conviction, to equip any motor vehicle
11 the person operates with a certified ignition interlock device pursuant to
12 section 28-3319. In addition, the court may order the person to equip any
13 motor vehicle the person operates with a certified ignition interlock
14 device for more than twelve months beginning on the date the person
15 successfully completes the alcohol or other drug screening, education or
16 treatment program requirements of this title and the person is otherwise
17 eligible to reinstate the person's driver license or driving privilege.
18 The person who operates a motor vehicle with a certified ignition
19 interlock device under this paragraph shall comply with article 5 of this
20 chapter.

21 7. Shall be required by the department to attend and successfully
22 complete an approved traffic survival school course.

23 J. Notwithstanding subsection I, paragraph 1 of this section, at
24 the time of sentencing the judge may suspend all but one day of the
25 sentence if the person completes a court ordered alcohol or other drug
26 screening, education or treatment program. If the person fails to
27 complete the court ordered alcohol or other drug screening, education or
28 treatment program and has not been placed on probation, the court shall
29 issue an order to show cause to the defendant as to why the remaining jail
30 sentence should not be served.

31 K. If within a period of eighty-four months a person is convicted
32 of a second violation of this section or is convicted of a violation of
33 this section and has previously been convicted of a violation of section
34 28-1382 or 28-1383 or an act in another jurisdiction that if committed in
35 this state would be a violation of this section or section 28-1382 or
36 28-1383, the person:

37 1. Shall be sentenced to serve not less than ninety days in jail,
38 thirty days of which shall be served consecutively, and is not eligible
39 for probation or suspension of execution of sentence unless the entire
40 sentence has been served.

41 2. Shall pay a fine of not less than \$500.

42 3. Shall be ordered by a court to perform at least thirty hours of
43 community restitution.

44 4. Shall have the person's driving privilege revoked for one year.
45 The court shall report the conviction to the department. On receipt of

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

13 5. Shall pay an additional assessment of \$1,250 to be deposited by
14 the state treasurer in the prison construction and operations fund
15 established by section 41-1651. This assessment is not subject to any
16 surcharge. If the conviction occurred in the superior court or a justice
17 court, the court shall transmit the assessed monies to the county
18 treasurer. If the conviction occurred in a municipal court, the court
19 shall transmit the assessed monies to the city treasurer. The city or
20 county treasurer shall transmit the monies received to the state
21 treasurer.

22 6. Shall pay an additional assessment of \$1,250 to be deposited by
23 the state treasurer in the public safety equipment fund established by
24 section 41-1723. This assessment is not subject to any surcharge. If the
25 conviction occurred in the superior court or a justice court, the court
26 shall transmit the assessed monies to the county treasurer. If the
27 conviction occurred in a municipal court, the court shall transmit the
28 assessed monies to the city treasurer. The city or county treasurer shall
29 transmit the monies received to the state treasurer.

30 7. Shall be required by the department to attend and successfully
31 complete an approved traffic survival school course.

32 L. Notwithstanding subsection K, paragraph 1 of this section, at
33 the time of sentencing, the judge may suspend all but thirty days of the
34 sentence if the person completes a court ordered alcohol or other drug
35 screening, education or treatment program. If the person fails to
36 complete the court ordered alcohol or other drug screening, education or
37 treatment program and has not been placed on probation, the court shall
38 issue an order to show cause as to why the remaining jail sentence should
39 not be served.

40 M. In applying the eighty-four month provision of subsection K of
41 this section, the dates of the commission of the offense shall be the
42 determining factor, irrespective of the sequence in which the offenses
43 were committed.

1 N. A second violation for which a conviction occurs as provided in
2 this section shall not include a conviction for an offense arising out of
3 the same series of acts.

4 O. After completing forty-five days of the revocation period
5 prescribed by subsection K of this section, a person whose driving
6 privilege is revoked for a violation of this section and who is sentenced
7 pursuant to subsection K of this section is eligible for a special
8 ignition interlock restricted driver license pursuant to section 28-1401.

9 P. The court may order a person who is convicted of a violation of
10 this section that does not involve intoxicating liquor to equip any motor
11 vehicle the person operates with a certified ignition interlock device
12 pursuant to section 28-3319. On receipt of the report of conviction and
13 certified ignition interlock device requirement, the department shall
14 require the person to equip any motor vehicle the person operates with a
15 certified ignition interlock device pursuant to section 28-3319. In
16 addition, the court may order the person to equip any motor vehicle the
17 person operates with a certified ignition interlock device for more than
18 twelve months beginning on the date the person successfully completes the
19 alcohol or other drug screening, education or treatment program
20 requirements of this title and the person is otherwise eligible to
21 reinstate the person's driver license or driving privilege. The person
22 who operates a motor vehicle with a certified ignition interlock device
23 under this subsection shall comply with article 5 of this chapter.

24 Q. A prosecution for a violation of this section involving a
25 collision that resulted in serious physical injury or death as identified
26 in a written accident report completed pursuant to section 28-667 must be
27 commenced within two years after actual discovery of the offense by the
28 state or the political subdivision having jurisdiction or discovery by the
29 state or the political subdivision that should have occurred with the
30 exercise of reasonable diligence, whichever first occurs.