

Conference Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 253

HOUSE BILL 2182

AN ACT

AMENDING SECTION 28-1381, ARIZONA REVISED STATUTES; AMENDING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 51, SECTION 2; AMENDING SECTIONS 28-1383, 28-1387, 28-1461, 28-1462, 28-1463, 28-1464 AND 28-3319, 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; classification

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

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

13 2. If the person has an alcohol concentration of 0.10 or more within
14 two hours of driving or being in actual physical control of the vehicle and
15 the alcohol concentration results from alcohol consumed either before or
16 while driving or being in actual physical control of the vehicle.

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

19 4. If the vehicle is a commercial motor vehicle that requires a person
20 to obtain a commercial driver license as defined in section 28-3001 and the
21 person has an alcohol concentration of 0.04 or more.

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

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

27 D. A person using a drug prescribed by a medical practitioner licensed
28 pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating
29 subsection A, paragraph 3 of this section.

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

35 F. At the arraignment, the court shall inform the defendant that the
36 defendant may request a trial by jury and that the request, if made, shall
37 be granted.

38 G. In a trial, action or proceeding for a violation of this section
39 or section 28-1383 other than a trial, action or proceeding involving driving
40 or being in actual physical control of a commercial vehicle, the defendant's
41 alcohol concentration within two hours of the time of driving or being in
42 actual physical control as shown by analysis of the defendant's blood, breath
43 or other bodily substance gives rise to the following presumptions:

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

1 2. If there was at that time in excess of 0.05 but less than 0.10
2 alcohol concentration in the defendant's blood, breath or other bodily
3 substance, that fact shall not give rise to a presumption that the defendant
4 was or was not under the influence of intoxicating liquor, but that fact may
5 be considered with other competent evidence in determining the guilt or
6 innocence of the defendant.

7 3. If there was at that time 0.10 or more alcohol concentration in the
8 defendant's blood, breath or other bodily substance, it may be presumed that
9 the defendant was under the influence of intoxicating liquor.

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

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

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

17 2. Shall pay a fine of not less than two hundred fifty dollars.

18 3. May be ordered by a court to perform community service.

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

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

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

37 2. Shall pay a fine of not less than five hundred dollars.

38 3. May be ordered by a court to perform community service.

39 4. Shall have the person's driving privilege revoked for one year. The
40 court shall report the conviction to the department. On receipt of the
41 report, the department shall revoke the person's driving privilege and shall
42 require the person to equip any motor vehicle the person operates with a
43 certified ignition interlock device ~~for one year on the conclusion of the~~
44 ~~license suspension or revocation~~ PURSUANT TO SECTION 28-3319. In addition,
45 the court may order the person to equip any motor vehicle the person operates
46 with a certified ignition interlock device for more than ~~one year~~ TWELVE

1 MONTHS BEGINNING on the conclusion of the license suspension or revocation
2 OR ON THE DATE OF CONVICTION, WHICHEVER OCCURS LATER. The person who
3 operates a motor vehicle with a certified ignition interlock device under
4 this paragraph shall comply with article 5 of this chapter.

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

12 M. In applying the sixty month provision of subsection K of this
13 section, the dates of the commission of the offense shall be the determining
14 factor, irrespective of the sequence in which the offenses were committed.

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

18 Sec. 2. Section 28-1382, Arizona Revised Statutes, as amended by Laws
19 2001, chapter 51, section 2, is amended to read:

20 28-1382. Driving or actual physical control while under the
21 extreme influence of intoxicating liquor; trial by
22 jury; sentencing; classification

23 A. It is unlawful for a person to drive or be in actual physical
24 control of a vehicle in this state if the person has an alcohol concentration
25 of 0.15 or more within two hours of driving or being in actual physical
26 control of the vehicle and the alcohol concentration results from alcohol
27 consumed either before or while driving or being in actual physical control
28 of the vehicle.

29 B. A person who is convicted of a violation of this section is guilty
30 of driving or being in actual physical control of a vehicle while under the
31 extreme influence of intoxicating liquor.

32 C. At the arraignment, the court shall inform the defendant that the
33 defendant may request a trial by jury and that the request, if made, shall
34 be granted.

35 D. A person who is convicted of a violation of this section:

36 1. Shall be sentenced to serve not less than thirty consecutive days
37 in jail and is not eligible for probation or suspension of execution of
38 sentence unless the entire sentence is served.

39 2. Shall pay a fine of not less than two hundred fifty dollars. The
40 fine prescribed in this paragraph and any assessments, restitution and
41 incarceration costs shall be paid before the assessment prescribed in
42 paragraph 3 of this subsection.

43 3. Shall pay an additional assessment of two hundred fifty dollars.
44 If the conviction occurred in the superior court or a justice court, the
45 court shall transmit the monies received pursuant to this paragraph to the
46 county treasurer. If the conviction occurred in a municipal court, the court

1 shall transmit the monies received pursuant to this paragraph to the city
2 treasurer. The city or county treasurer shall transmit the monies received
3 to the state treasurer. The state treasurer shall deposit the monies
4 received in the driving under the influence abatement fund established by
5 section 28-1304.

6 4. May be ordered by a court to perform community service.

7 5. Shall be required by the department, on receipt of the report of
8 conviction, to equip any motor vehicle the person operates with a certified
9 ignition interlock device ~~for one year on the conclusion of the license~~
10 ~~suspension or revocation~~ PURSUANT TO SECTION 28-3319. In addition, the court
11 may order the person to equip any motor vehicle the person operates with a
12 certified ignition interlock device for more than ~~one year~~ TWELVE MONTHS
13 BEGINNING on the conclusion of the license suspension or revocation OR ON THE
14 DATE OF CONVICTION, WHICHEVER OCCURS LATER. The person who operates a motor
15 vehicle with a certified ignition interlock device under this paragraph shall
16 comply with article 5 of this chapter.

17 E. Notwithstanding subsection D, paragraph 1 of this section, at the
18 time of sentencing the judge may suspend all but ten days of the sentence if
19 the person completes a court ordered alcohol or other drug screening,
20 education or treatment program. If the person fails to complete the court
21 ordered alcohol or other drug screening, education or treatment program and
22 has not been placed on probation, the court shall issue an order to show
23 cause to the defendant as to why the remaining jail sentence should not be
24 served.

25 F. If within a period of sixty months a person is convicted of a
26 second violation of this section or is convicted of a violation of this
27 section and has previously been convicted of a violation of section 28-1381
28 or 28-1383 or an act in another jurisdiction that if committed in this state
29 would be a violation of this section or section 28-1381 or 28-1383, the
30 person:

31 1. Shall be sentenced to serve not less than one hundred twenty days
32 in jail, sixty days of which shall be served consecutively, and is not
33 eligible for probation or suspension of execution of sentence unless the
34 entire sentence has been served.

35 2. Shall pay a fine of not less than five hundred dollars. The fine
36 prescribed in this paragraph and any assessments, restitution and
37 incarceration costs shall be paid before the assessment prescribed in
38 paragraph 3 of this subsection.

39 3. Shall pay an additional assessment of two hundred fifty dollars.
40 If the conviction occurred in the superior court or a justice court, the
41 court shall transmit the monies received pursuant to this paragraph to the
42 county treasurer. If the conviction occurred in a municipal court, the court
43 shall transmit the monies received pursuant to this paragraph to the city
44 treasurer. The city or county treasurer shall transmit the monies received
45 to the state treasurer. The state treasurer shall deposit the monies

1 received in the driving under the influence abatement fund established by
2 section 28-1304.

3 4. May be ordered by a court to perform community service.

4 5. Shall have the person's driving privilege revoked for at least one
5 year. The court shall report the conviction to the department. On receipt
6 of the report, the department shall revoke the person's driving privilege and
7 shall require the person to equip any motor vehicle the person operates with
8 a certified ignition interlock device for ~~one year on the conclusion of the~~
9 ~~license suspension or revocation~~ PURSUANT TO SECTION 28-3319. In addition,
10 the court may order the person to equip any motor vehicle the person operates
11 with a certified ignition interlock device for more than ~~one year~~ TWELVE
12 MONTHS BEGINNING on the conclusion of the license suspension or revocation
13 OR ON THE DATE OF CONVICTION, WHICHEVER IS LATER. The person who operates
14 a motor vehicle with a certified ignition interlock device under this
15 paragraph shall comply with article 5 of this chapter.

16 G. Notwithstanding subsection F, paragraph 1 of this section, at the
17 time of sentencing, the judge may suspend all but sixty days of the sentence
18 if the person completes a court ordered alcohol or other drug screening,
19 education or treatment program. If the person fails to complete the court
20 ordered alcohol or other drug screening, education or treatment program and
21 has not been placed on probation, the court shall issue an order to show
22 cause as to why the remaining jail sentence should not be served.

23 H. In applying the sixty month provision of subsection F of this
24 section, the dates of the commission of the offense shall be the determining
25 factor, irrespective of the sequence in which the offenses were committed.

26 I. A second violation for which a conviction occurs as provided in
27 this section shall not include a conviction for an offense arising out of the
28 same series of acts.

29 J. A person who is convicted of a violation of this section is guilty
30 of a class 1 misdemeanor.

31 Sec. 3. Section 28-1383, Arizona Revised Statutes, is amended to read:
32 28-1383. Aggravated driving or actual physical control while
33 under the influence; violation; classification;
34 definition

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

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

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

1 28-1381, section 28-1382 or this section or acts in another jurisdiction that
2 if committed in this state would be a violation of section 28-1381, section
3 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 B. The dates of the commission of the offenses are the determining
9 factor in applying the sixty month provision provided in subsection A,
10 paragraph 2 of this section regardless of the sequence in which the offenses
11 were committed. For purposes of this section, a third or subsequent
12 violation for which a conviction occurs does not include a conviction for an
13 offense arising out of the same series of acts.

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

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

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

22 2. Subsection A, paragraph 2 of this section and within a sixty month
23 period has been convicted of two prior violations of section 28-1381, section
24 28-1382 or this section, or any combination of those sections, or acts in
25 another jurisdiction that if committed in this state would be a violation of
26 section 28-1381, section 28-1382 or this section.

27 E. A person who is convicted under subsection A, paragraph 2 of this
28 section and who within a sixty month period has been convicted of three or
29 more prior violations of section 28-1381, section 28-1382 or this section,
30 or any combination of those sections, or acts in another jurisdiction that
31 if committed in this state would be a violation of section 28-1381, section
32 28-1382 or this section is not eligible for probation, pardon, commutation
33 or suspension of sentence or release on any other basis until the person has
34 served not less than eight months in prison.

35 F. In addition to any other penalty provided by law, a person who is
36 convicted under subsection A, paragraph 3, subdivision (a) of this section
37 shall be sentenced to at least the minimum sentence required pursuant to
38 section 28-1381, except that if a person has been convicted of at least two
39 prior violations of section 28-1381, section 28-1382 or this section, or any
40 combination of those sections, or convicted of at least two prior acts in
41 another jurisdiction that if committed in this state would be violations of
42 section 28-1381, section 28-1382 or this section, or any combination of those
43 sections, within a sixty month period, the person shall be sentenced to serve
44 at least the minimum sentence required pursuant to this section.

45 G. In addition to any other penalty provided by law, a person who is
46 convicted under subsection A, paragraph 3, subdivision (b) of this section

1 shall be sentenced to at least the minimum sentence required pursuant to
2 section 28-1382, except that if a person has been convicted of at least two
3 prior violations of section 28-1381, section 28-1382 or this section, or any
4 combination of those sections, or convicted of at least two prior acts in
5 another jurisdiction that if committed in this state would be a violation of
6 section 28-1381, section 28-1382 or this section, or any combination of those
7 sections, within a sixty month period, the person shall be sentenced to serve
8 at least the minimum sentence required pursuant to this section.

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

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

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

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

25 J. The court:

26 1. Shall report the conviction to the department. On receipt of the
27 report, the department shall revoke the driving privilege of the person. The
28 department shall not issue the person a new driver license within three years
29 of the date of the conviction and, for a conviction of a violation of
30 subsection A, paragraph 1 or 2 or paragraph 3, subdivision (b) of this
31 section, shall require the person to equip any motor vehicle the person
32 operates with a certified ignition interlock device ~~for one year on the~~
33 ~~conclusion of the license suspension or revocation~~ PURSUANT TO SECTION
34 28-3319. In addition, the court may order the person to equip any motor
35 vehicle the person operates with a certified ignition interlock device for
36 more than ~~one year~~ TWELVE MONTHS BEGINNING on the conclusion of the license
37 suspension or revocation OR ON THE DATE OF CONVICTION, WHICHEVER OCCURS
38 LATER. The person who operates a motor vehicle with a certified ignition
39 interlock device under this paragraph shall comply with article 5 of this
40 chapter.

41 2. In addition to any other penalty prescribed by law, shall order the
42 person to pay an additional assessment of two hundred fifty dollars. If the
43 conviction occurred in the superior court or a justice court, the court shall
44 transmit the monies received pursuant to this paragraph to the county
45 treasurer. If the conviction occurred in a municipal court, the court shall
46 transmit the monies received pursuant to this paragraph to the city

1 treasurer. The city or county treasurer shall transmit the monies received
2 to the state treasurer. The state treasurer shall deposit the monies
3 received in the driving under the influence abatement fund established by
4 section 28-1304. Any fine imposed for a violation of this section and any
5 assessments, restitution and incarceration costs shall be paid before the
6 assessment prescribed in this paragraph.

7 K. Aggravated driving or actual physical control while under the
8 influence of intoxicating liquor or drugs committed under:

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

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

11 L. For the purposes of this section, "suspension, cancellation,
12 revocation or refusal" means any suspension, cancellation, revocation or
13 refusal.

14 Sec. 4. Section 28-1387, Arizona Revised Statutes, is amended to read:

15 28-1387. Prior convictions; alcohol or other drug screening,
16 education and treatment; license suspension;
17 supervised probation; civil liability; procedures

18 A. The court shall allow the allegation of a prior conviction or any
19 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383
20 or an act in another jurisdiction that if committed in this state would be
21 a violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
22 before the date the case is actually tried and may allow the allegation of
23 a prior conviction or any other pending charge of a violation of section
24 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
25 committed in this state would be a violation of section 28-1381, 28-1382 or
26 28-1383 filed at any time before the date the case is actually tried if this
27 state makes available to the defendant when the allegation is filed a copy
28 of any information obtained concerning the prior conviction or other pending
29 charge. Any conviction may be used to enhance another conviction
30 irrespective of the dates on which the offenses occurred within the sixty
31 month provision. For the purposes of this article, an order of a juvenile
32 court adjudicating a person delinquent is equivalent to a conviction.

33 B. In addition to any other penalties prescribed by law, the judge
34 shall order a person who is convicted of a violation of section 28-1381 or
35 28-1382 to complete alcohol or other drug screening that is provided by a
36 facility approved by the department of health services or a probation
37 department. If a judge determines that the person requires further alcohol
38 or other drug education or treatment, the person may be required pursuant to
39 court order to obtain alcohol or other drug education or treatment under the
40 court's supervision from an approved facility. The judge may review an
41 education or treatment determination at the request of the state or the
42 defendant or on the judge's initiative. The person shall pay the costs of
43 the screening, education or treatment unless the court waives part or all of
44 the costs. If a person is referred to a screening, education or treatment
45 facility, the facility shall report to the court whether the person has
46 successfully completed the screening, education or treatment program.

1 C. After a person who is sentenced pursuant to section 28-1381,
2 subsection I has served twenty-four consecutive hours in jail or after a
3 person who is sentenced pursuant to section 28-1381, subsection K or section
4 28-1382, subsection D or F has served forty-eight consecutive hours in jail
5 and after the court receives confirmation that the person is employed or is
6 a student, the court may provide in the sentence that the defendant, if the
7 defendant is employed or is a student and can continue the defendant's
8 employment or studies, may continue the employment or studies for not more
9 than twelve hours a day nor more than five days a week. The person shall
10 spend the remaining day, days or parts of days in jail until the sentence is
11 served and shall be allowed out of jail only long enough to complete the
12 actual hours of employment or studies.

13 D. Unless the license of a person sentenced CONVICTED under section
14 28-1381 or 28-1382 has been or is suspended pursuant to section 28-1321 or
15 28-1385, the department on receipt of the abstract of conviction of a
16 violation of section 28-1381 or 28-1382 shall suspend the license of the
17 affected person for not less than ninety consecutive days.

18 E. When the department receives notification that the person meets the
19 criteria provided in section 28-1385, subsection F, the department shall
20 suspend the driving privileges of the person for not less than thirty
21 consecutive days and shall restrict the driving privileges of the person for
22 not less than sixty consecutive additional days to travel between any of the
23 following:

24 1. The person's place of employment and residence and during specified
25 periods of time while at employment.

26 2. The person's place of residence and the person's secondary or
27 postsecondary school, according to the person's employment or educational
28 schedule.

29 3. The person's place of residence and a treatment facility for
30 scheduled appointments.

31 4. The person's place of residence and the office of the person's
32 probation officer for scheduled appointments.

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

37 G. Any political subdivision processing or using the services of a
38 person ordered to perform community service pursuant to section 28-1381 or
39 28-1382 does not incur any civil liability to the person ordered to perform
40 community service as a result of these activities unless the political
41 subdivision or its agent or employee acts with gross negligence.

42 H. Except for another violation of this article, the state shall not
43 dismiss a charge of violating any provision of this article unless there is
44 an insufficient legal or factual basis to pursue that charge.

45 Sec. 5. Section 28-1461, Arizona Revised Statutes, is amended to read:

1 28-1461. Court ordered use of certified ignition interlock
2 devices

3 A. If a person's driving privilege is limited pursuant to section
4 28-1381, 28-1382, or 28-1383 OR 28-3319:

5 1. The person shall:

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

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

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

14 (d) Provide proof of inspection of the certified ignition interlock
15 device for accurate operation and the results of the inspection to the
16 department at least once every ninety days during the period the person is
17 ordered to use an ignition interlock device.

18 2. The department shall not reinstate the person's driver license
19 until the person has installed a functioning certified ignition interlock
20 device in each motor vehicle operated by the person and has provided proof
21 of installation to the department.

22 B. The department shall make a notation on the driving record of a
23 person whose driving privilege is limited pursuant to section 28-1381,
24 28-1382, or 28-1383 OR 28-3319 that states that the person shall not operate
25 a motor vehicle unless it is equipped with a certified ignition interlock
26 device.

27 Sec. 6. Section 28-1462, Arizona Revised Statutes, is amended to read:

28 28-1462. Ignition interlock device certification; installer
29 bonds

30 A. After consulting with the director of the department of health
31 services, the assistant director for the motor vehicle division of the
32 department of transportation shall:

33 1. Certify ignition interlock devices.

34 2. Publish a list of certified ignition interlock devices that
35 includes information about the manufacturers of the devices and where the
36 devices may be ordered.

37 3. Make the list available to the courts and probation departments
38 without charge.

39 B. The assistant director shall adopt rules prescribing the
40 requirements for certification of an ignition interlock device. These rules
41 shall include:

42 1. The procedure for certification of ignition interlock devices.

43 2. Provisions to ensure the reliability of the ignition interlock
44 device over the range of motor vehicle environments.

45 3. Provisions to ensure that the ignition interlock device works
46 accurately in an unsupervised environment.

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

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

5 2. The device is made by a manufacturer that is covered by product
6 liability insurance.

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

9 D. The assistant director may adopt, in whole or in part, the
10 guidelines, rules, regulations, studies or independent laboratory tests
11 performed and relied on by other states or agencies or commissions of other
12 states in the certification or approval of ignition interlock devices.

13 E. Each installer of a certified ignition interlock device shall
14 submit to the department a bond in a form to be approved by the assistant
15 director and in an amount of at least twenty-five thousand dollars. The bond
16 inures to the benefit of any person who is ordered by a court OR REQUIRED to
17 equip a motor vehicle with an ignition interlock device pursuant to article
18 3 of this chapter OR SECTION 28-3319 and who suffers a loss because of either
19 of the following:

20 1. Insolvency or discontinuance of business of the installer of the
21 device.

22 2. Failure of the installer or agent of the installer to comply with
23 any rule adopted pursuant to this section.

24 F. The assistant director shall adopt a warning label design to be
25 affixed to each certified ignition interlock device on installation. The
26 label shall contain a warning that a person tampering with, circumventing or
27 otherwise misusing the ignition interlock device is guilty of a class 1
28 misdemeanor.

29 Sec. 7. Section 28-1463, Arizona Revised Statutes, is amended to read:
30 28-1463. Proof of compliance; inspections; suspension

31 A. If a person whose driving privilege is limited pursuant to section
32 28-1381, 28-1382, or 28-1383 OR 28-3319 does not submit proof of compliance
33 to the department as prescribed in section 28-1461, the department shall
34 suspend the person's driver license for at least ~~one year~~ TWELVE MONTHS. If
35 a person does not request a hearing pursuant to subsection B of this section,
36 the department shall immediately suspend the person's driver license.

37 B. A person whose driver license is suspended pursuant to this section
38 may submit a written request for a hearing. The written request must be
39 received by the department within fifteen days after the date of the order
40 of suspension. On receipt of a request for a hearing, a hearing shall be
41 held within thirty days.

42 C. A timely request for a hearing stays the suspension until a hearing
43 is held, except that the department shall not return any surrendered driver
44 license or permit to the person but may issue temporary permits to drive that
45 expire no later than when the department has made its final decision.

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

5 1. Whether the person was ordered or required to equip a motor vehicle
6 with an ignition interlock device pursuant to article 3 of this chapter OR
7 SECTION 28-3319.

8 2. Whether the person submitted proof of compliance or inspection
9 pursuant to section 28-1461.

10 Sec. 8. Section 28-1464, Arizona Revised Statutes, is amended to read:

11 28-1464. Ignition interlock devices; violations;

12 classification; definition

13 A. A person whose driving privilege is limited pursuant to section
14 28-1381, 28-1382, or 28-1383 OR 28-3319 and who is required to operate a
15 motor vehicle owned by the person's employer in the course and scope of the
16 person's employment may operate that motor vehicle without the installation
17 of a certified ignition interlock device if the person notifies the person's
18 employer that the person, in conjunction with the person's sentence, has
19 specific requirements in order to operate a motor vehicle and the nature of
20 the requirements and the person has proof of the employer's notification in
21 the person's possession while operating the employer's motor vehicle for
22 normal business. For the purposes of this subsection, a motor vehicle that
23 is partly or entirely owned or controlled by the person whose driving
24 privilege is limited pursuant to section 28-1381, 28-1382, or 28-1383 OR
25 28-3319 is not a motor vehicle that is owned by an employer.

26 B. Except in cases of a substantial emergency, a person shall not
27 knowingly rent, lease or lend a motor vehicle to a person whose driving
28 privilege is limited pursuant to section 28-1381, 28-1382, or 28-1383 OR
29 28-3319 unless the motor vehicle is equipped with a functioning certified
30 ignition interlock device.

31 C. A person whose driving privilege is limited pursuant to section
32 28-1381, 28-1382, or 28-1383 OR 28-3319 and who rents, leases or borrows a
33 motor vehicle from another person shall notify the person who rents, leases
34 or lends the motor vehicle to the person that the person has specific
35 requirements for the operation of the motor vehicle and the nature of the
36 requirements.

37 D. During any period when a person whose driving privilege is limited
38 pursuant to section 28-1381, 28-1382, or 28-1383 OR 28-3319 is required to
39 operate only a motor vehicle that is equipped with a certified ignition
40 interlock device, the person shall not request or permit any other person to
41 breathe into the ignition interlock device or start a motor vehicle equipped
42 with an ignition interlock device for the purpose of providing the person
43 with an operable motor vehicle.

44 E. A person shall not breathe into an ignition interlock device or
45 start a motor vehicle equipped with an ignition interlock device for the
46 purpose of providing an operable motor vehicle to a person whose driving

1 privilege is limited pursuant to section 28-1381, 28-1382, or 28-1383 OR
2 28-3319.

3 F. A person whose driving privilege is limited pursuant to section
4 28-1381, 28-1382, or 28-1383 OR 28-3319 shall not tamper with or circumvent
5 the operation of an ignition interlock device.

6 G. A person who is not a manufacturer's authorized installer or an
7 agent of a manufacturer's authorized installer and who is not a person whose
8 driving privilege is limited pursuant to section 28-1381, 28-1382, or 28-1383
9 OR 28-3319 shall not tamper with or circumvent the operation of an ignition
10 interlock device.

11 H. Except as provided in subsection A of this section or in cases of
12 substantial emergency, a person whose driving privilege is limited pursuant
13 to section 28-1381, 28-1382, or 28-1383 OR 28-3319 shall not operate a motor
14 vehicle without a functioning certified ignition interlock device during the
15 time period prescribed in section 28-3319 OR BY A COURT PURSUANT TO SECTION
16 28-1381, 28-1382 or 28-1383.

17 I. A person who violates this section is guilty of a class 1
18 misdemeanor. Additionally, if a person is convicted of violating subsection
19 A, C, D, F or H of this section, the department shall extend the duration of
20 the certified ignition interlock device requirement for not more than one
21 year.

22 J. For the purposes of this section, "substantial emergency" means
23 that a person other than the person whose driving privilege is limited
24 pursuant to section 28-1381, 28-1382, or 28-1383 OR 28-3319 is not reasonably
25 available to drive in response to an emergency.

26 Sec. 9. Section 28-3319, Arizona Revised Statutes, is amended to read:
27 28-3319. Action after license suspension, revocation or denial
28 for driving under the influence or refusal of test;
29 definition

30 A. If pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 the
31 license of a driver or the driving privilege of a nonresident is suspended
32 or revoked, the department shall not terminate the suspension or revocation
33 until the person provides proof of financial responsibility pursuant to
34 chapter 9, article 3 of this title.

35 B. If pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 an
36 unlicensed resident is denied a license or permit to operate a motor vehicle,
37 the department shall not issue a license or permit until the person provides
38 proof of financial responsibility pursuant to chapter 9, article 3 of this
39 title.

40 C. If a person whose license or driving privilege is suspended or
41 revoked pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 is ordered,
42 pursuant to section 28-1381, 28-1382 or 28-1383, to attend alcohol or other
43 drug screening, education or treatment, the department shall not either:

44 1. Terminate the suspension until the person provides proof from the
45 treatment facility that the person has completed or is participating
46 satisfactorily in alcohol or other drug screening, education or treatment.

1 2. Issue a new license to operate a motor vehicle after the revocation
2 until the person provides proof from the facility that the person has
3 completed the court ordered program.

4 D. ON RECEIPT OF A REPORT OF CONVICTION FROM A COURT, THE DEPARTMENT
5 SHALL REQUIRE ANY MOTOR VEHICLE THE CONVICTED PERSON OPERATES TO BE EQUIPPED
6 WITH A CERTIFIED IGNITION INTERLOCK DEVICE FOR TWELVE MONTHS IF ANY OF THE
7 FOLLOWING APPLIES:

8 1. THE DEPARTMENT DETERMINES THAT WITHIN A PERIOD OF SIXTY MONTHS A
9 PERSON IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SECTION 28-1381
10 WITH A PRIOR CONVICTION OF A VIOLATION OF SECTION 28-1381 OR 28-1382 OR AN
11 ACT IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A
12 VIOLATION OF SECTION 28-1381 OR 28-1382.

13 2. THE CONVICTION IS FOR A VIOLATION OF SECTION 28-1382.

14 3. THE CONVICTION IS FOR A VIOLATION OF SECTION 28-1383, SUBSECTION
15 A, PARAGRAPH 1 OR 2 OR PARAGRAPH 3, SUBDIVISION (b).

16 E. THE TWELVE MONTH PERIOD PRESCRIBED IN SUBSECTION D OF THIS SECTION
17 BEGINS ON THE CONCLUSION OF THE PERSON'S LICENSE SUSPENSION OR REVOCATION OR
18 ON THE DATE OF CONVICTION, WHICHEVER OCCURS LATER.

19 F. A PERSON WHO IS REQUIRED TO EQUIP A MOTOR VEHICLE WITH A CERTIFIED
20 IGNITION INTERLOCK DEVICE PURSUANT TO SUBSECTION D OF THIS SECTION SHALL
21 COMPLY WITH CHAPTER 4, ARTICLE 5 OF THIS TITLE.

22 G. FOR THE PURPOSES OF THIS SECTION, "CERTIFIED IGNITION INTERLOCK
23 DEVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION 28-1301.

APPROVED BY THE GOVERNOR APRIL 26, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2001.

Passed the House February 6, 20 01,

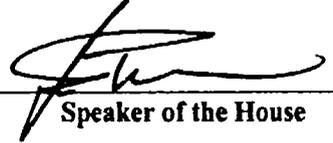
Passed the Senate April 4, 20 01,

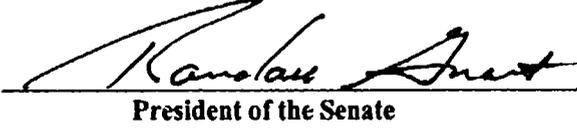
by the following vote: 57 Ayes,

by the following vote: 29 Ayes,

0 Nays, 3 Not Voting

1 Nays, 0 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20 _____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of
_____, 20 _____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2182

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20 _____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 18, 2001,

by the following vote: 53 Ayes,

1 Nays, 6 Not Voting

[Signature]

Speaker of the House

[Signature]
Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 19, 2001,

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

[Signature]

President of the Senate

[Signature]
Charmaine Belinfante
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 20 day of April, 2001,

at 8:27 o'clock A M.

[Signature]
Sandra Garay
Secretary to the Governor

Approved this 26 day of

April, 2001,

at 2:10 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26 day of April, 2001,

at 3:45 o'clock P M.

[Signature]
Secretary of State

H.B. 2182