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**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
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CHAPTER 395
SENATE BILL 1560

AN ACT

AMENDING SECTION 28-673, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 312, SECTION 1; AMENDING SECTION 28-1321, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 312, SECTION 3; AMENDING SECTIONS 28-1381 AND 28-1382, ARIZONA REVISED STATUTES; AMENDING SECTION 28-1383, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 307, SECTION 6; REPEALING SECTION 28-1383, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 312, SECTION 4; AMENDING SECTIONS 28-1385, 28-1387 AND 28-3304, ARIZONA REVISED STATUTES; AMENDING SECTION 28-3319, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 312, SECTION 12; RELATING TO IMPAIRED DRIVING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-673, Arizona Revised Statutes, as amended by
3 Laws 2005, chapter 312, section 1, is amended to read:

4 28-673. Traffic accidents; implied consent; tests

5 A. A person who operates a motor vehicle within this state gives
6 consent to a test or tests of the person's blood, breath, urine or other
7 bodily substance for the purposes of determining alcohol concentration or
8 drug content if the person is involved in a traffic accident resulting in
9 death or serious physical injury as defined in section 13-105 and a law
10 enforcement officer has probable cause to believe that the person caused the
11 accident or the person is issued a citation for a violation of any provision
12 of this article, article 2, 3 or 5 through 15 of this chapter or chapter 4 of
13 this title.

14 B. The test or tests chosen by the law enforcement agency shall be
15 administered at the direction of a law enforcement officer who has reasonable
16 grounds to believe that the person was involved in a traffic accident
17 resulting in death or serious physical injury as defined in section 13-105
18 and who has probable cause to believe that the person caused the accident or
19 the person was issued a citation for a violation of any provision of this
20 article, article 2, 3 or 5 through 15 of this chapter or chapter 4 of this
21 title.

22 C. After a determination is made that a person was involved in a
23 traffic accident resulting in death or serious physical injury as defined in
24 section 13-105 and the officer has probable cause to believe that the person
25 caused the accident or the person was issued a citation for a violation of
26 any provision of this article, article 2, 3 or 5 through 15 of this chapter
27 or chapter 4 of this title, the person may be requested to submit to and
28 successfully complete any test or tests prescribed by subsection A of this
29 section, and if the person refuses, the person shall be informed that the
30 person's license or permit to drive will be suspended or denied for twelve
31 months, or for two years for a second or subsequent refusal in a period of
32 ~~sixty~~ EIGHTY-FOUR months, unless the person expressly agrees to submit to and
33 successfully completes the test or tests. A failure to expressly agree to
34 the test or successfully complete the test is deemed a refusal. The person
35 shall also be informed that if the test results show a blood or breath
36 alcohol concentration of 0.08 or more, or if the results show a blood or
37 breath alcohol concentration of 0.04 or more and the person was driving or in
38 actual physical control of a commercial motor vehicle, the person's license
39 or permit to drive will be suspended or denied for not less than ninety
40 consecutive days.

41 D. If a person refuses to submit to the test designated by the law
42 enforcement agency as provided in subsection B of this section:

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

3 2. The law enforcement officer directing the administration of the
4 test shall:

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

6 (b) On behalf of the department, serve an order of suspension on the
7 person that is effective fifteen days after the date the order is served.

8 (c) Require the immediate surrender of any license or permit to drive
9 that is issued by this state and that is in the possession or control of the
10 person.

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

13 (e) If a valid license or permit is surrendered, issue a temporary
14 driving permit that is valid for fifteen days.

15 (f) Forward the certified report of refusal, a copy of the completed
16 notice of suspension, a copy of any completed temporary permit and any driver
17 license or permit taken into possession under this section to the department
18 within five days after the issuance of the notice of suspension.

19 E. Section 28-1321, subsections E through ~~Θ~~ P apply to any test
20 prescribed by this section and to any person who refuses to submit to a test
21 prescribed by this section, except that:

22 1. The certified report shall state the law enforcement officer's
23 reasonable grounds to believe that the person was involved in a traffic
24 accident resulting in death or serious physical injury as defined in section
25 13-105 and the law enforcement officer's probable cause to believe that the
26 person caused the accident or the person was issued a citation for a
27 violation of any provision of this article, article 2, 3 or 5 through 15 of
28 this chapter or chapter 4 of this title.

29 2. The certified report shall be filed pursuant to subsection D of
30 this section.

31 3. The scope of the hearing shall include the law enforcement
32 officer's probable cause to believe that the person was involved in a traffic
33 accident resulting in death or serious physical injury as defined in section
34 13-105 and the law enforcement officer's probable cause to believe that the
35 person caused the accident or the person was issued a citation for a
36 violation of any provision of this article, article 2, 3 or 5 through 15 of
37 this chapter or chapter 4 of this title.

38 F. A person who is dead, unconscious or otherwise in a condition
39 rendering the person incapable of refusal is deemed not to have withdrawn the
40 consent provided by subsection A of this section and the test or tests shall
41 be administered.

1 Sec. 2. Section 28-1321, Arizona Revised Statutes, as amended by Laws
2 2005, chapter 312, section 3, is amended to read:

3 28-1321. Implied consent; tests; refusal to submit to test;
4 order of suspension; hearing; review; temporary
5 permit; notification of suspension; special ignition
6 interlock restricted driver license

7 A. A person who operates a motor vehicle in this state gives consent,
8 subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or
9 28-1383, to a test or tests of the person's blood, breath, urine or other
10 bodily substance for the purpose of determining alcohol concentration or drug
11 content if the person is arrested for any offense arising out of acts alleged
12 to have been committed in violation of this chapter or section 4-244,
13 paragraph 33 while the person was driving or in actual physical control of a
14 motor vehicle while under the influence of intoxicating liquor or drugs. The
15 test or tests chosen by the law enforcement agency shall be administered at
16 the direction of a law enforcement officer having reasonable grounds to
17 believe that the person was driving or in actual physical control of a motor
18 vehicle in this state either:

19 1. While under the influence of intoxicating liquor or drugs.

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

22 B. After an arrest a violator shall be requested to submit to and
23 successfully complete any test or tests prescribed by subsection A of this
24 section, and if the violator refuses the violator shall be informed that the
25 violator's license or permit to drive will be suspended or denied for twelve
26 months, or for two years for a second or subsequent refusal within a period
27 of ~~sixty~~ EIGHTY-FOUR months, unless the violator expressly agrees to submit
28 to and successfully completes the test or tests. A failure to expressly
29 agree to the test or successfully complete the test is deemed a refusal. The
30 violator shall also be informed that if the test results show a blood or
31 breath alcohol concentration of 0.08 or more, or if the results show a blood
32 or breath alcohol concentration of 0.04 or more and the violator was driving
33 or in actual physical control of a commercial motor vehicle, the violator's
34 license or permit to drive will be suspended or denied for not less than
35 ninety consecutive days.

36 C. A person who is dead, unconscious or otherwise in a condition
37 rendering the person incapable of refusal is deemed not to have withdrawn the
38 consent provided by subsection A of this section and the test or tests may be
39 administered, subject to section 4-244, paragraph 33 or section 28-1381,
40 28-1382 or 28-1383.

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

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

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

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

4 (b) On behalf of the department, serve an order of suspension on the
5 person that is effective fifteen days after the date the order is served.

6 (c) Require the immediate surrender of any license or permit to drive
7 that is issued by this state and that is in the possession or control of the
8 person.

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

11 (e) If a valid license or permit is surrendered, issue a temporary
12 driving permit that is valid for fifteen days.

13 (f) Forward the certified report of refusal, a copy of the completed
14 notice of suspension, a copy of any completed temporary permit and any driver
15 license or permit taken into possession under this section to the department
16 within five days after the issuance of the notice of suspension.

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

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

22 (a) While under the influence of intoxicating liquor or drugs.

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

25 2. The manner in which the person refused to submit to the test or
26 tests.

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

28 F. On receipt of the certified report of refusal and a copy of the
29 order of suspension and on the effective date stated on the order, the
30 department shall enter the order of suspension on its records unless a
31 written request for a hearing as provided in this section has been filed by
32 the accused person. If the department receives only the certified report of
33 refusal, the department shall notify the person named in the report in
34 writing sent by mail that:

35 1. Fifteen days after the date of issuance of the notice the
36 department will suspend the person's license or permit, driving privilege or
37 nonresident driving privilege.

38 2. The department will provide an opportunity for a hearing if the
39 person requests a hearing in writing and the request is received by the
40 department within fifteen days after the notice is sent.

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

- 1 1. The person may submit a written request for a hearing.
- 2 2. The request for a hearing must be received by the department within
- 3 fifteen days after the date of the notice or the order of suspension will
- 4 become final.
- 5 3. The affected person's license or permit to drive or right to apply
- 6 for a license or permit or any nonresident operating privilege will be
- 7 suspended for twelve months from that date or for two years from that date
- 8 for a second or subsequent refusal within a period of ~~sixty~~ EIGHTY-FOUR
- 9 months.
- 10 H. The order for suspension shall:
- 11 1. Be accompanied by printed forms that are ready to mail to the
- 12 department and that may be filled out and signed by the person to indicate
- 13 the person's desire for a hearing.
- 14 2. Advise the person that unless the person has surrendered any driver
- 15 license or permit issued by this state the person's hearing request will not
- 16 be accepted, except that the person may certify pursuant to section 28-3170
- 17 that the license or permit is lost or destroyed.
- 18 I. On the receipt of a request for a hearing, the department shall set
- 19 the hearing within thirty days in the county in which the person named in the
- 20 report resides unless the law enforcement agency filing the certified report
- 21 of refusal pursuant to subsection D of this section requests at the time of
- 22 its filing that the hearing be held in the county where the refusal occurred.
- 23 J. A timely request for a hearing stays the suspension until a hearing
- 24 is held, except that the department shall not return any surrendered license
- 25 or permit to the person but may issue temporary permits to drive that expire
- 26 no later than when the department has made its final decision. If the person
- 27 is a resident without a license or permit or has an expired license or
- 28 permit, the department may allow the person to apply for a license or permit.
- 29 If the department determines the person is otherwise entitled to the license
- 30 or permit, the department shall issue and retain a license or permit subject
- 31 to this section.
- 32 K. Hearings requested under this section shall be conducted in the
- 33 same manner and under the same conditions as provided in section
- 34 28-3306. For the purposes of this section, the scope of the hearing shall
- 35 include only the issues of whether:
- 36 1. A law enforcement officer had reasonable grounds to believe that
- 37 the person was driving or was in actual physical control of a motor vehicle
- 38 in this state either:
- 39 (a) While under the influence of intoxicating liquor or drugs.
- 40 (b) If the person is under twenty-one years of age, with spirituous
- 41 liquor in the person's body.
- 42 2. The person was placed under arrest.
- 43 3. The person refused to submit to the test.
- 44 4. The person was informed of the consequences of refusal.

1 L. If the department determines at the hearing to suspend the affected
2 person's privilege to operate a motor vehicle, the suspension provided in
3 this section is effective fifteen days after giving written notice of the
4 suspension, except that the department may issue or extend a temporary
5 license that expires on the effective date of the suspension. If the person
6 is a resident without a license or permit or has an expired license or permit
7 to operate a motor vehicle in this state, the department shall deny to the
8 person the issuance of a license or permit for a period of twelve months
9 after the order of suspension becomes effective or for a period of two years
10 after the order of suspension becomes effective for a second or subsequent
11 refusal within a period of ~~sixty~~ EIGHTY-FOUR months.

12 M. If the suspension order is sustained after the hearing, a motion
13 for rehearing is not required. Within thirty days after a suspension order
14 is sustained, the affected person may file a petition in the superior court
15 to review the final order of suspension or denial by the department in the
16 same manner provided in section 28-3317. The court shall hear the review of
17 the final order of suspension or denial on an expedited basis.

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

21 O. If it has been determined under the procedures of this section that
22 a nonresident's privilege to operate a motor vehicle in this state has been
23 suspended, the department shall give information in writing of the action
24 taken to the motor vehicle administrator of the state of the person's
25 residence and of any state in which the person has a license.

26 P. After completing not less than ninety consecutive days of the
27 period of suspension required by this section, a person whose driving
28 privilege is suspended pursuant to this section may apply to the department
29 for a special ignition interlock restricted driver license pursuant to
30 section 28-1401. Unless the certified ignition interlock period is extended
31 by the department pursuant to section 28-1402, a person who is issued a
32 special ignition interlock restricted driver license as provided in this
33 subsection shall maintain a functioning certified ignition interlock device
34 in compliance with THIS chapter ~~4 of this title~~ during the remaining period
35 of the suspension prescribed by this section. This subsection does not apply
36 to a person whose driving privilege is suspended for a second or subsequent
37 refusal within a period of ~~sixty~~ EIGHTY-FOUR months or a person who within a
38 period of ~~sixty~~ EIGHTY-FOUR months has been convicted of a second or
39 subsequent violation of article 3 of this chapter or section 4-244, paragraph
40 33 or an act in another jurisdiction that if committed in this state would be
41 a violation of article 3 of this chapter or section 4-244, paragraph 33.

1 Sec. 3. Section 28-1381, Arizona Revised Statutes, is amended to read:
2 28-1381. Driving or actual physical control while under the
3 influence; trial by jury; presumptions; admissible
4 evidence; sentencing; classification

5 A. It is unlawful for a person to drive or be in actual physical
6 control of a vehicle in this state under any of the following circumstances:
7 1. While under the influence of intoxicating liquor, any drug, a vapor
8 releasing substance containing a toxic substance or any combination of
9 liquor, drugs or vapor releasing substances if the person is impaired to the
10 slightest degree.

11 2. If the person has an alcohol concentration of 0.08 or more within
12 two hours of driving or being in actual physical control of the vehicle and
13 the alcohol concentration results from alcohol consumed either before or
14 while driving or being in actual physical control of the vehicle.

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

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

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

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

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

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

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

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

42 1. If there was at that time 0.05 or less alcohol concentration in the
43 defendant's blood, breath or other bodily substance, it may be presumed that
44 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 0.08
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 0.08 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 restitution.

19 4. Shall pay an additional assessment of five hundred dollars to be
20 deposited by the state treasurer in the prison construction and operations
21 fund established by section 41-1651. This assessment is not subject to any
22 surcharge. If the conviction occurred in the superior court or a justice
23 court, the court shall transmit the assessed monies to the county treasurer.
24 If the conviction occurred in a municipal court, the court shall transmit the
25 assessed monies to the city treasurer. The city or county treasurer shall
26 transmit the monies received to the state treasurer.

27 5. Shall pay an additional assessment of five hundred dollars to be
28 deposited by the state treasurer in the state general fund. This assessment
29 is not subject to any surcharge. If the conviction occurred in the superior
30 court or a justice court, the court shall transmit the assessed monies to the
31 county treasurer. If the conviction occurred in a municipal court, the court
32 shall transmit the assessed monies to the city treasurer. The city or county
33 treasurer shall transmit the monies received to the state treasurer.

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

42 K. If within a period of ~~sixty~~ EIGHTY-FOUR months a person is
43 convicted of a second violation of this section or is convicted of a
44 violation of this section and has previously been convicted of a violation of
45 section 28-1382 or 28-1383 or an act in another jurisdiction that if

1 committed in this state would be a violation of this section or section
2 28-1382 or 28-1383, the person:

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

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

8 3. May SHALL be ordered by a court to perform AT LEAST THIRTY HOURS OF
9 community restitution.

10 4. Shall have the person's driving privilege revoked for one
11 year. The court shall report the conviction to the department. On receipt
12 of the report, the department shall revoke the person's driving privilege and
13 shall require the person to equip any motor vehicle the person operates with
14 a certified ignition interlock device pursuant to section 28-3319. In
15 addition, the court may order the person to equip any motor vehicle the
16 person operates with a certified ignition interlock device for more than
17 twelve months beginning on the date of reinstatement of the person's driving
18 privilege following a suspension or revocation or on the date of the
19 department's receipt of the report of conviction, whichever occurs
20 later. The person who operates a motor vehicle with a certified ignition
21 interlock device under this paragraph shall comply with article 5 of this
22 chapter.

23 5. Shall pay an additional assessment of one thousand two hundred
24 fifty dollars to be deposited by the state treasurer in the prison
25 construction and operations fund established by section 41-1651. This
26 assessment is not subject to any surcharge. If the conviction occurred in
27 the superior court or a justice court, the court shall transmit the assessed
28 monies to the county treasurer. If the conviction occurred in a municipal
29 court, the court shall transmit the assessed monies to the city
30 treasurer. The city or county treasurer shall transmit the monies received
31 to the state treasurer.

32 6. Shall pay an additional assessment of one thousand two hundred
33 fifty dollars to be deposited by the state treasurer in the state general
34 fund. This assessment is not subject to any surcharge. If the conviction
35 occurred in the superior court or a justice court, the court shall transmit
36 the assessed monies to the county treasurer. If the conviction occurred in a
37 municipal court, the court shall transmit the assessed monies to the city
38 treasurer. The city or county treasurer shall transmit the monies received
39 to the state treasurer.

40 L. Notwithstanding subsection K, paragraph 1 of this section, at the
41 time of sentencing, the judge may suspend all but thirty days of the sentence
42 if the person completes a court ordered alcohol or other drug screening,
43 education or treatment program. If the person fails to complete the court
44 ordered alcohol or other drug screening, education or treatment program and

1 has not been placed on probation, the court shall issue an order to show
2 cause as to why the remaining jail sentence should not be served.

3 M. In applying the ~~sixty~~ EIGHTY-FOUR month provision of subsection K
4 of this section, the dates of the commission of the offense shall be the
5 determining factor, irrespective of the sequence in which the offenses were
6 committed.

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

10 Sec. 4. Section 28-1382, Arizona Revised Statutes, is amended to read:
11 28-1382. Driving or actual physical control while under the
12 extreme influence of intoxicating liquor; trial by
13 jury; sentencing; classification

14 A. It is unlawful for a person to drive or be in actual physical
15 control of a vehicle in this state if the person has an alcohol concentration
16 of 0.15 or more within two hours of driving or being in actual physical
17 control of the vehicle and the alcohol concentration results from alcohol
18 consumed either before or while driving or being in actual physical control
19 of the vehicle.

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

23 C. At the arraignment, the court shall inform the defendant that the
24 defendant may request a trial by jury and that the request, if made, shall be
25 granted.

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

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

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

34 3. Shall pay an additional assessment of two hundred fifty dollars. If
35 the conviction occurred in the superior court or a justice court, the court
36 shall transmit the monies received pursuant to this paragraph to the county
37 treasurer. If the conviction occurred in a municipal court, the court shall
38 transmit the monies received pursuant to this paragraph to the city
39 treasurer. The city or county treasurer shall transmit the monies received
40 to the state treasurer. The state treasurer shall deposit the monies
41 received in the driving under the influence abatement fund established by
42 section 28-1304.

43 4. May be ordered by a court to perform community restitution.

1 5. Shall be required by the department, on receipt of the report of
2 conviction, to equip any motor vehicle the person operates with a certified
3 ignition interlock device pursuant to section 28-3319. In addition, the
4 court may order the person to equip any motor vehicle the person operates
5 with a certified ignition interlock device for more than twelve months
6 beginning on the date of reinstatement of the person's driving privilege
7 following a suspension or revocation or on the date of the department's
8 receipt of the report of conviction, whichever occurs later. The person who
9 operates a motor vehicle with a certified ignition interlock device under
10 this paragraph shall comply with article 5 of this chapter.

11 6. Shall pay an additional assessment of one thousand dollars to be
12 deposited by the state treasurer in the prison construction and operations
13 fund established by section 41-1651. This assessment is not subject to any
14 surcharge. If the conviction occurred in the superior court or a justice
15 court, the court shall transmit the assessed monies to the county
16 treasurer. If the conviction occurred in a municipal court, the court shall
17 transmit the assessed monies to the city treasurer. The city or county
18 treasurer shall transmit the monies received to the state treasurer.

19 7. Shall pay an additional assessment of one thousand dollars to be
20 deposited by the state treasurer in the state general fund. This assessment
21 is not subject to any surcharge. If the conviction occurred in the superior
22 court or a justice court, the court shall transmit the assessed monies to the
23 county treasurer. If the conviction occurred in a municipal court, the court
24 shall transmit the assessed monies to the city treasurer. The city or county
25 treasurer shall transmit the monies received to the state treasurer.

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

34 F. If within a period of ~~sixty~~ EIGHTY-FOUR months a person is
35 convicted of a second violation of this section or is convicted of a
36 violation of this section and has previously been convicted of a violation of
37 section 28-1381 or 28-1383 or an act in another jurisdiction that if
38 committed in this state would be a violation of this section or section
39 28-1381 or 28-1383, the person:

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

44 2. Shall pay a fine of not less than five hundred dollars. The fine
45 prescribed in this paragraph and any assessments, restitution and

1 incarceration costs shall be paid before the assessment prescribed in
2 paragraph 3 of this subsection.

3 3. Shall pay an additional assessment of two hundred fifty
4 dollars. If the conviction occurred in the superior court or a justice
5 court, the court shall transmit the monies received pursuant to this
6 paragraph to the county treasurer. If the conviction occurred in a municipal
7 court, the court shall transmit the monies received pursuant to this
8 paragraph to the city treasurer. The city or county treasurer shall transmit
9 the monies received to the state treasurer. The state treasurer shall
10 deposit the monies received in the driving under the influence abatement fund
11 established by section 28-1304.

12 4. May SHALL be ordered by a court to perform AT LEAST THIRTY HOURS OF
13 community restitution.

14 5. Shall have the person's driving privilege revoked for at least one
15 year. The court shall report the conviction to the department. On receipt
16 of the report, the department shall revoke the person's driving privilege and
17 shall require the person to equip any motor vehicle the person operates with
18 a certified ignition interlock device pursuant to section 28-3319. In
19 addition, the court may order the person to equip any motor vehicle the
20 person operates with a certified ignition interlock device for more than
21 twelve months beginning on the date of reinstatement of the person's driving
22 privilege following a suspension or revocation or on the date of the
23 department's receipt of the report of conviction, whichever is later. The
24 person who operates a motor vehicle with a certified ignition interlock
25 device under this paragraph shall comply with article 5 of this chapter.

26 6. Shall pay an additional assessment of one thousand two hundred
27 fifty dollars to be deposited by the state treasurer in the prison
28 construction and operations fund established by section 41-1651. This
29 assessment is not subject to any surcharge. If the conviction occurred in
30 the superior court or a justice court, the court shall transmit the assessed
31 monies to the county treasurer. If the conviction occurred in a municipal
32 court, the court shall transmit the assessed monies to the city treasurer.
33 The city or county treasurer shall transmit the monies received to the state
34 treasurer.

35 7. Shall pay an additional assessment of one thousand two hundred
36 fifty dollars to be deposited by the state treasurer in the state general
37 fund. This assessment is not subject to any surcharge. If the conviction
38 occurred in the superior court or a justice court, the court shall transmit
39 the assessed monies to the county treasurer. If the conviction occurred in a
40 municipal court, the court shall transmit the assessed monies to the city
41 treasurer. The city or county treasurer shall transmit the monies received
42 to the state treasurer.

43 G. Notwithstanding subsection F, paragraph 1 of this section, at the
44 time of sentencing, the judge may suspend all but sixty days of the sentence
45 if the person completes a court ordered alcohol or other drug screening,

1 education or treatment program. If the person fails to complete the court
2 ordered alcohol or other drug screening, education or treatment program and
3 has not been placed on probation, the court shall issue an order to show
4 cause as to why the remaining jail sentence should not be served.

5 H. In applying the ~~sixty~~ EIGHTY-FOUR month provision of subsection F
6 of this section, the dates of the commission of the offense shall be the
7 determining factor, irrespective of the sequence in which the offenses were
8 committed.

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

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

14 Sec. 5. Section 28-1383, Arizona Revised Statutes, as amended by Laws
15 2005, chapter 307, section 6, is amended to read:

16 28-1383. Aggravated driving or actual physical control while
17 under the influence; violation; classification;
18 definition

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

22 1. Commits a violation of section 28-1381, section 28-1382 or this
23 section while the person's driver license or privilege to drive is suspended,
24 canceled, revoked or refused or while a restriction is placed on the person's
25 driver license or privilege to drive as a result of violating section 28-1381
26 or 28-1382 or under section 28-1385.

27 2. Within a period of ~~sixty~~ EIGHTY-FOUR months commits a third or
28 subsequent violation of section 28-1381, section 28-1382 or this section or
29 is convicted of a violation of section 28-1381, section 28-1382 or this
30 section and has previously been convicted of any combination of convictions
31 of section 28-1381, section 28-1382 or this section or acts in another
32 jurisdiction that if committed in this state would be a violation of section
33 28-1381, section 28-1382 or this section.

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

36 (a) Section 28-1381.

37 (b) Section 28-1382.

38 B. The dates of the commission of the offenses are the determining
39 factor in applying the ~~sixty~~ EIGHTY-FOUR month provision provided in
40 subsection A, paragraph 2 of this section regardless of the sequence in which
41 the offenses were committed. For the purposes of this section, a third or
42 subsequent violation for which a conviction occurs does not include a
43 conviction for an offense arising out of the same series of acts.

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

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

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

9 2. Subsection A, paragraph 2 of this section and within ~~a sixty~~ AN
10 EIGHTY-FOUR month period has been convicted of two prior violations of
11 section 28-1381, section 28-1382 or this section, or any combination of those
12 sections, or acts in another jurisdiction that if committed in this state
13 would be a violation of section 28-1381, section 28-1382 or this section.

14 E. A person who is convicted under subsection A, paragraph 2 of this
15 section and who within ~~a sixty~~ AN EIGHTY-FOUR month period has been convicted
16 of three or more prior violations of section 28-1381, section 28-1382 or this
17 section, or any combination of those sections, or acts in another
18 jurisdiction that if committed in this state would be a violation of section
19 28-1381, section 28-1382 or this section is not eligible for probation,
20 pardon, commutation or suspension of sentence or release on any other basis
21 until the person has served not less than eight months in prison.

22 F. ~~In addition to any other penalty provided by law, A person who is~~
23 ~~convicted under subsection A, paragraph 3, subdivision (a) of this section~~
24 ~~shall be sentenced to SERVE at least the minimum sentence TERM OF~~
25 ~~INCARCERATION required pursuant to section 28-1381, except that if a person~~
26 ~~has been convicted of at least two prior violations of section 28-1381,~~
27 ~~section 28-1382 or this section, or any combination of those sections, or~~
28 ~~convicted of at least two prior acts in another jurisdiction that if~~
29 ~~committed in this state would be violations of section 28-1381, section~~
30 ~~28-1382 or this section, or any combination of those sections, within a sixty~~
31 ~~month period, the person shall be sentenced to serve at least the minimum~~
32 ~~sentence required pursuant to this section.~~

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

44 H. A person who is convicted of a violation of this section shall
45 attend and complete alcohol or other drug screening, education or treatment

1 from an approved facility. If the person fails to comply with this
2 subsection and is placed on probation, in addition to the provisions of
3 section 13-901 the court may order that the person be incarcerated as a term
4 of probation as follows:

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

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

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

15 J. ON A CONVICTION FOR A VIOLATION OF THIS SECTION, the court:

16 1. Shall report the conviction to the department. On receipt of the
17 report, the department shall revoke the driving privilege of the person. The
18 department shall not issue the person a new driver license within three years
19 of the date of the conviction and, for a conviction of a violation of
20 subsection A, paragraph 1 or 2 or paragraph 3, subdivision (b) of this
21 section, shall require the person to equip any motor vehicle the person
22 operates with a certified ignition interlock device pursuant to section
23 28-3319. In addition, the court may order the person to equip any motor
24 vehicle the person operates with a certified ignition interlock device for
25 more than twelve months beginning on the date of reinstatement of the
26 person's driving privilege following a suspension or revocation or on the
27 date of the department's receipt of the report of conviction, whichever
28 occurs later. The person who operates a motor vehicle with a certified
29 ignition interlock device under this paragraph shall comply with article 5 of
30 this chapter.

31 2. In addition to any other penalty prescribed by law, shall order the
32 person to pay an additional assessment of two hundred fifty dollars. If the
33 conviction occurred in the superior court or a justice court, the court shall
34 transmit the monies received pursuant to this paragraph to the county
35 treasurer. If the conviction occurred in a municipal court, the court shall
36 transmit the monies received pursuant to this paragraph to the city
37 treasurer. The city or county treasurer shall transmit the monies received
38 to the state treasurer. The state treasurer shall deposit the monies
39 received in the driving under the influence abatement fund established by
40 section 28-1304. Any fine imposed for a violation of this section and any
41 assessments, restitution and incarceration costs shall be paid before the
42 assessment prescribed in this paragraph.

43 3. Shall order the person to pay a fine of not less than seven hundred
44 fifty dollars.

1 4. In addition to any other penalty prescribed by law, shall order the
2 person to pay an additional assessment of one thousand five hundred dollars
3 to be deposited by the state treasurer in the prison construction and
4 operations fund established by section 41-1651. This assessment is not
5 subject to any surcharge. If the conviction occurred in the superior court
6 or a justice court, the court shall transmit the assessed monies to the
7 county treasurer. If the conviction occurred in a municipal court, the court
8 shall transmit the assessed monies to the city treasurer. The city or county
9 treasurer shall transmit the monies received to the state treasurer.

10 5. In addition to any other penalty prescribed by law, shall order the
11 person to pay an additional assessment of one thousand five hundred dollars
12 to be deposited by the state treasurer in the state general fund. This
13 assessment is not subject to any surcharge. If the conviction occurred in
14 the superior court or a justice court, the court shall transmit the assessed
15 monies to the county treasurer. If the conviction occurred in a municipal
16 court, the court shall transmit the assessed monies to the city treasurer.
17 The city or county treasurer shall transmit the monies received to the state
18 treasurer.

19 K. AFTER COMPLETING THE PERIOD OF SUSPENSION REQUIRED BY SECTION
20 28-1385, A PERSON WHOSE DRIVING PRIVILEGE IS REVOKED FOR A VIOLATION OF
21 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION MAY APPLY TO THE DEPARTMENT FOR A
22 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
23 28-1401.

24 ~~K.~~ L. Aggravated driving or actual physical control while under the
25 influence of intoxicating liquor or drugs committed under:

- 26 1. Subsection A, paragraph 1 or 2 of this section is a class 4 felony.
27 2. Subsection A, paragraph 3 of this section is a class 6 felony.

28 ~~L.~~ M. For the purposes of this section, "suspension, cancellation,
29 revocation or refusal" means any suspension, cancellation, revocation or
30 refusal.

31 Sec. 6. Repeal

32 Section 28-1383, Arizona Revised Statutes, as amended by Laws 2005,
33 chapter 312, section 4, is repealed.

34 Sec. 7. Section 28-1385, Arizona Revised Statutes, is amended to read:
35 28-1385. Administrative license suspension for driving under
36 the influence; report; hearing; summary review

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

- 41 1. The officer arrests a person for a violation of section 4-244,
42 paragraph 33, section 28-1381, section 28-1382 or section 28-1383.
43 2. The person submits to a blood or breath alcohol test permitted by
44 section 28-1321, the results of which indicate either:

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

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

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

10 1. Information that adequately identifies the arrested person.

11 2. A statement of the officer's grounds for belief that the person was
12 driving or in actual physical control of a motor vehicle in violation of
13 section 4-244, paragraph 33, section 28-1381 or section 28-1382.

14 3. A statement that the person was arrested for a violation of section
15 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

16 4. A report of the results of the chemical test that was administered.

17 C. The officer shall also serve an order of suspension on the person
18 on behalf of the department. The order of suspension:

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

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

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

26 4. Shall be accompanied by printed forms ready to mail to the
27 department that the person may fill out and sign to indicate the person's
28 desire for a hearing.

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

31 D. If the license or permit is not surrendered pursuant to subsection
32 C of this section, the officer shall state the reason for the
33 nonsurrender. If a valid license or permit is surrendered, the officer shall
34 issue a temporary driving permit that is valid for fifteen days. The officer
35 shall forward a copy of the completed order of suspension, a copy of any
36 completed temporary permit and any driver license or permit taken into
37 possession under this section to the department within five days after the
38 issuance of the order of suspension along with the report.

39 E. The department shall suspend the affected person's license or
40 permit to drive or right to apply for a license or permit or any nonresident
41 operating privilege for not less than ninety consecutive days from that date.

42 F. Notwithstanding subsections A through E of this section, the
43 department shall suspend the driving privileges of the person described in
44 subsection A of this section for not less than thirty consecutive days and
45 shall restrict the driving privileges of the person for not less than sixty

1 consecutive additional days to travel between the person's place of
2 employment and residence and during specified periods of time while at
3 employment, to travel between the person's place of residence and the
4 person's secondary or postsecondary school, according to the person's
5 employment or educational schedule, to travel between the person's place of
6 residence and the office of the person's probation officer for scheduled
7 appointments or to travel between the person's place of residence and a
8 treatment facility for scheduled appointments if the person:

9 1. Did not cause serious physical injury as defined in section 13-105
10 to another person during the course of conduct out of which the current
11 action arose.

12 2. Has not been convicted of a violation of section 28-1381, 28-1382
13 or 28-1383 within ~~sixty~~ EIGHTY-FOUR months of the date of commission of the
14 acts out of which the current action arose. The dates of commission of the
15 acts are the determining factor in applying the ~~sixty~~ EIGHTY-FOUR month
16 provision.

17 3. Has not had the person's privilege to drive suspended pursuant to
18 this section or section 28-1321 within ~~sixty~~ EIGHTY-FOUR months of the date
19 of commission of the acts out of which the current action arose.

20 G. If the department receives only the report of the results of the
21 blood or breath alcohol test and the results indicate 0.08 or more alcohol
22 concentration in the person's blood or breath, or show a blood or breath
23 alcohol concentration of 0.04 or more and the person was driving or in actual
24 physical control of a commercial motor vehicle, the department shall notify
25 the person named in the report in writing sent by mail that fifteen days
26 after the date of issuance of the notice the department will suspend the
27 person's license or permit, driving privilege or nonresident driving
28 privilege. The notice shall also state that the department will provide an
29 opportunity for a hearing and administrative review if the person requests a
30 hearing or review in writing and the request is received by the department
31 within fifteen days after the notice is sent.

32 H. A timely request for a hearing stays the suspension until a hearing
33 is held, except that the department shall not return any surrendered license
34 or permit to the person but may issue temporary permits to drive that expire
35 no later than when the department has made its final decision. If the person
36 is a resident without a license or permit or has an expired license or
37 permit, the department may allow the person to apply for a license or
38 permit. If the department determines the person is otherwise entitled to the
39 license or permit, the department shall issue, but retain, the license or
40 permit, subject to this section. All hearings requested under this section
41 shall be conducted in the same manner and under the same conditions as
42 provided in section 28-3306.

43 I. For the purposes of this section, the scope of the hearing shall
44 include only the following issues:

- 1 1. Whether the officer had reasonable grounds to believe the person
2 was driving or was in actual physical control of a motor vehicle while under
3 the influence of intoxicating liquor.
- 4 2. Whether the person was placed under arrest for a violation of
5 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
6 28-1383.
- 7 3. Whether a test was taken, the results of which indicated the
8 alcohol concentration in the person's blood or breath at the time the test
9 was administered of either:
- 10 (a) 0.08 or more.
- 11 (b) 0.04 or more if the person was driving or in actual physical
12 control of a commercial motor vehicle.
- 13 4. Whether the testing method used was valid and reliable.
- 14 5. Whether the test results were accurately evaluated.
- 15 J. The results of the blood or breath alcohol test shall be admitted
16 on establishing the requirements in section 28-1323 or 28-1326.
- 17 K. If the department determines at the hearing to suspend the affected
18 person's privilege to operate a motor vehicle, the suspension provided in
19 this section is effective fifteen days after giving written notice of the
20 suspension, except that the department may issue or extend a temporary
21 license that expires on the effective date of the suspension. If the person
22 is a resident without a license or permit or has an expired license or permit
23 to operate a motor vehicle in this state, the department shall deny the
24 issuance of a license or permit to the person for not less than ninety
25 consecutive days.
- 26 L. A person may apply for a summary review of an order issued pursuant
27 to this section instead of a hearing at any time before the effective date of
28 the order. The person shall submit the application in writing to any
29 department driver license examining office together with any written
30 explanation as to why the department should not suspend the driving
31 privilege. The agent of the department receiving the notice shall issue to
32 the person an additional driving permit that expires twenty days from the
33 date the request is received. The department shall review all reports
34 submitted by the officer and any written explanation submitted by the person
35 and shall determine if the order of suspension should be sustained or
36 cancelled. The department shall not hold a hearing, and the review is not
37 subject to title 41, chapter 6. The department shall notify the person of
38 its decision before the temporary driving permit expires.
- 39 M. If the suspension or determination that there should be a denial of
40 issuance is not sustained after a hearing or review, the ruling is not
41 admissible in and does not have any effect on any civil or criminal court
42 proceeding.
- 43 N. If it has been determined under the procedures of this section that
44 a nonresident's privilege to operate a motor vehicle in this state has been
45 suspended, the department shall give information in writing of the action

1 taken to the motor vehicle administrator of the state of the person's
2 residence and of any state in which the person has a license.

3 Sec. 8. Section 28-1387, Arizona Revised Statutes, is amended to read:

4 28-1387. Prior convictions; alcohol or other drug screening,
5 education and treatment; license suspension;
6 supervised probation; civil liability; procedures

7 A. The court shall allow the allegation of a prior conviction or any
8 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
9 an act in another jurisdiction that if committed in this state would be a
10 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
11 before the date the case is actually tried and may allow the allegation of a
12 prior conviction or any other pending charge of a violation of section
13 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
14 committed in this state would be a violation of section 28-1381, 28-1382 or
15 28-1383 filed at any time before the date the case is actually tried if this
16 state makes available to the defendant when the allegation is filed a copy of
17 any information obtained concerning the prior conviction or other pending
18 charge. Any conviction may be used to enhance another conviction
19 irrespective of the dates on which the offenses occurred within the ~~sixty~~
20 EIGHTY-FOUR month provision. For the purposes of this article, an order of a
21 juvenile court adjudicating a person delinquent is equivalent to a
22 conviction.

23 B. In addition to any other penalties prescribed by law, the judge
24 shall order a person who is convicted of a violation of section 28-1381 or
25 28-1382 to complete alcohol or other drug screening that is provided by a
26 facility approved by the department of health services or a probation
27 department. If a judge determines that the person requires further alcohol
28 or other drug education or treatment, the person may be required pursuant to
29 court order to obtain alcohol or other drug education or treatment under the
30 court's supervision from an approved facility. The judge may review an
31 education or treatment determination at the request of the state, the
32 defendant or the probation officer or on the judge's initiative. The person
33 shall pay the costs of the screening, education or treatment unless, after
34 considering the person's ability to pay all or part of the costs, the court
35 waives all or part of the costs. If a person is referred to a screening,
36 education or treatment facility, the facility shall report to the court
37 whether the person has successfully completed the screening, education or
38 treatment program.

39 C. After a person who is sentenced pursuant to section 28-1381,
40 subsection I has served twenty-four consecutive hours in jail or after a
41 person who is sentenced pursuant to section 28-1381, subsection K or section
42 28-1382, subsection D or F has served forty-eight consecutive hours in jail
43 and after the court receives confirmation that the person is employed or is a
44 student, the court may provide in the sentence that the defendant, if the
45 defendant is employed or is a student and can continue the defendant's

1 employment or schooling, may continue the employment or schooling for not
2 more than twelve hours a day nor more than five days a week. The person
3 shall spend the remaining day, days or parts of days in jail until the
4 sentence is served and shall be allowed out of jail only long enough to
5 complete the actual hours of employment or schooling.

6 D. Unless the license of a person convicted under section 28-1381 or
7 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
8 department on receipt of the abstract of conviction of a violation of section
9 28-1381 or 28-1382 shall suspend the license of the affected person for not
10 less than ninety consecutive days.

11 E. When the department receives notification that the person meets the
12 criteria provided in section 28-1385, subsection F, the department shall
13 suspend the driving privileges of the person for not less than thirty
14 consecutive days and shall restrict the driving privileges of the person for
15 not less than sixty consecutive additional days to travel between any of the
16 following:

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

19 2. The person's place of residence and the person's secondary or
20 postsecondary school, according to the person's employment or educational
21 schedule.

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

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

26 F. If a person is placed on probation for violating section 28-1381 or
27 28-1382, the probation shall be supervised unless the court finds that
28 supervised probation is not necessary or the court does not have supervisory
29 probation services.

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

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

38 Sec. 9. Section 28-3304, Arizona Revised Statutes, is amended to read:
39 28-3304. Mandatory revocation of license; definition

40 A. In addition to the grounds for mandatory revocation provided for in
41 chapters 3, 4 and 5 of this title, the department shall immediately revoke
42 the license of a driver on receipt of a record of the driver's conviction of
43 any of the following offenses if the conviction is final:

- 1 1. A homicide or aggravated assault resulting from the operation of a
2 motor vehicle.
- 3 2. Driving a motor vehicle while under the influence of a drug as
4 defined in section 13-3401 or in violation of section 28-1381, subsection A,
5 paragraph 3.
- 6 3. A felony in the commission of which a motor vehicle is used.
- 7 4. Theft of a motor vehicle pursuant to section 13-1802.
- 8 5. Unlawful use of means of transportation pursuant to section
9 13-1803.
- 10 6. Theft of means of transportation pursuant to section 13-1814.
- 11 7. Drive by shooting pursuant to section 13-1209.
- 12 8. Failure to stop and render aid as required under the laws of this
13 state if a motor vehicle accident results in the death or personal injury of
14 another.
- 15 9. Perjury or the making of a false affidavit or statement under oath
16 to the department under this chapter or under any other law relating to the
17 ownership or operation of a motor vehicle.
- 18 10. Conviction or forfeiture of bail not vacated on a second or
19 subsequent charge of the following offenses that are committed within ~~sixty~~
20 EIGHTY-FOUR months:
 - 21 (a) Reckless driving.
 - 22 (b) Racing on highways.
 - 23 (c) Any combination of a violation of section 28-1381 or 28-1382 and
24 reckless driving, of a violation of section 28-1381 or 28-1382 and racing on
25 highways, or of reckless driving and racing on highways, if they do not arise
26 out of the same event.
- 27 11. Conviction or forfeiture of bail not vacated on a second charge of
28 violating section 28-1381 or 28-1382 within ~~sixty~~ EIGHTY-FOUR months.
- 29 12. Conviction or forfeiture of bail not vacated on a third or
30 subsequent charge of violating section 28-1381 or 28-1382 within ~~sixty~~
31 EIGHTY-FOUR months.
- 32 13. Conviction or forfeiture of bail not vacated on a charge of
33 violating section 28-1381 or 28-1382 and the driver has been convicted within
34 a period of ~~sixty~~ EIGHTY-FOUR months of an offense in another jurisdiction
35 that if committed in this state would be a violation of section 28-1381 or
36 28-1382.
- 37 B. In determining the starting date for the ~~sixty~~ EIGHTY-FOUR month
38 period prescribed in subsection A, paragraphs 10 through 13 of this section,
39 the department shall use the date of the commission of the offense.
- 40 C. For the purposes of this section, "conviction" means a final
41 adjudication or judgment, including an order of a juvenile court finding that
42 a juvenile violated any provision of this title or committed a delinquent act
43 that if committed by an adult would constitute a criminal offense.

1 Sec. 10. Section 28-3319, Arizona Revised Statutes, as amended by Laws
2 2005, chapter 312, section 12, is amended to read:

3 28-3319. Action after license suspension, revocation or denial
4 for driving under the influence or refusal of test;
5 ignition interlock device requirement; definition

6 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
7 or 28-3322, the license of a driver or the driving privilege of a nonresident
8 is suspended or revoked, the department shall not terminate the suspension or
9 revocation or issue a special ignition interlock restricted driver license,
10 if applicable, pursuant to chapter 4, article 3.1 of this title until the
11 person provides proof of financial responsibility pursuant to chapter 9,
12 article 3 of this title.

13 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
14 or 28-3322, an unlicensed resident is denied a license or permit to operate a
15 motor vehicle, the department shall not issue a license or permit until the
16 person provides proof of financial responsibility pursuant to chapter 9,
17 article 3 of this title.

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

22 1. Terminate the suspension or issue a special ignition interlock
23 restricted driver license, if applicable, pursuant to chapter 4, article 3.1
24 of this title until the person provides proof from the treatment facility
25 that the person has completed or is participating satisfactorily in alcohol
26 or other drug screening, education or treatment.

27 2. Issue a new license or a special ignition interlock restricted
28 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
29 title to operate a motor vehicle after the revocation until the person
30 provides proof from the facility that the person has completed the court
31 ordered program.

32 D. On receipt of a report of conviction from a court, the department
33 shall require any motor vehicle the convicted person operates to be equipped
34 with a functioning certified ignition interlock device and the convicted
35 person to meet the requirements prescribed in section 28-1461 for twelve
36 months if any of the following applies:

37 1. The department determines that within a period of ~~sixty~~ EIGHTY-FOUR
38 months a person is convicted of a second or subsequent violation of section
39 28-1381 with a prior conviction of a violation of section 28-1381 or 28-1382
40 or an act in another jurisdiction that if committed in this state would be a
41 violation of section 28-1381 or 28-1382.

42 2. The conviction is for a violation of section 28-1382.

43 3. The conviction is for a violation of section 28-1383, subsection A,
44 paragraph 1 or 2 or paragraph 3, subdivision (b).

1 E. The twelve month period prescribed in subsection D of this section
2 begins on the date of reinstatement of the person's driving privilege
3 following a suspension or revocation or on the date of the department's
4 receipt of the report of conviction, whichever occurs later.

5 F. A person who is required to equip a motor vehicle with a certified
6 ignition interlock device pursuant to subsection D of this section shall
7 comply with chapter 4, article 5 of this title.

8 G. For the purposes of this section, "certified ignition interlock
9 device" has the same meaning prescribed in section 28-1301.

APPROVED BY THE GOVERNOR JUNE 28, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 28, 2006.