Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
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CHAPTER 286

HOUSE BILL 2210

AN ACT

AMENDING SECTION 5-395.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 187, SECTION 1 AND CHAPTER 307, SECTION 1; AMENDING SECTION 5-395.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 256, SECTION 7; AMENDING SECTIONS 5-396, 5-397 AND 12-108, ARIZONA REVISED STATUTES; REPEALING SECTION 12-116, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 369, SECTION 2; AMENDING SECTIONS 12-119.01 AND 12-267, ARIZONA REVISED STATUTES; AMENDING SECTION 12-284, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 80, SECTION 5; AMENDING SECTIONS 13-902, 22-281 AND 28-1381, ARIZONA REVISED STATUTES; AMENDING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 219, SECTION 2; REPEALING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 195, SECTION 3; AMENDING SECTIONS 28-1383, 28-1593, 28-3396, 28-8284, 28-8286, 28-8287 AND 28-8288, ARIZONA REVISED STATUTES; AMENDING SECTION 38-810, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 80, SECTION 10; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1722 AND 41-1723; TRANSFERRING AND RENUMBERING TITLE 41, CHAPTER 12, ARTICLE 12, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 32, ARIZONA REVISED STATUTES, AS ARTICLE 4; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 32, ARTICLE 4, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT, TO "ARIZONA PUBLIC SAFETY COMMUNICATIONS ADVISORY COMMISSION"; TRANSFERRING AND RENUMBERING SECTIONS 41-1830.41 AND 41-1830.42, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT, AS SECTIONS 41-3541 AND 41-3542, RESPECTIVELY; AMENDING SECTION 41-3014.16, ARIZONA REVISED STATUTES; AMENDING LAWS 2000, CHAPTER 293, SECTION 598, AS AMENDED BY LAWS 2001, CHAPTER 8, SECTION 2, LAWS

2002, CHAPTER 291, SECTION 17, LAWS 2004, CHAPTER 69, SECTION 5 AND LAWS 2006, CHAPTER 369, SECTION 12; AMENDING LAWS 2000, CHAPTER 193, SECTION 599, AS AMENDED BY LAWS 2001, CHAPTER 8, SECTION 3, LAWS 2002, CHAPTER 291, SECTION 18, LAWS 2004, CHAPTER 69, SECTION 6 AND LAWS 2006, CHAPTER 369, SECTION 13; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-395.01, Arizona Revised Statutes, as amended by Laws 2005, chapter 187, section 1 and chapter 307, section 1, is amended to read:

5-395.01. Operating or in actual physical control of a motorized watercraft while intoxicated; classification; penalties

A. A person who is convicted of a violation of section 5-395 is guilty of a class 1 misdemeanor. The person shall pay a fine of not less than two hundred fifty dollars. In addition to any other penalties under this section, the judge shall order the person to complete alcohol or other drug screening that is provided by a facility approved by the department of health services or a probation department. If a judge determines that the person requires further alcohol or other drug education or treatment, the person may be required pursuant to court order to obtain alcohol or other drug education or treatment under the court's supervision from an approved facility. The judge may review an education or treatment determination at the request of the state or the defendant or on the judge's initiative. The person shall pay the costs of the screening, education or treatment unless the court waives part or all of the costs.

B. Except as provided in section 5-398.01, the court may suspend any imposed sentence for a first violation of section 5-395 if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause to the defendant as to why the remaining jail sentence should not be served.

C. A court may order a person sentenced pursuant to this section to perform community restitution.

D. Notwithstanding subsection B of this section, if within a period of sixty months a person is convicted of a second violation of section 5-395 or is convicted of a violation of section 5-395 and has previously been convicted of an act in another state that if committed in this state would be a violation of section 5-395, the person shall be sentenced to serve not less than ninety days in jail, thirty days of which shall be served consecutively, and the person is not eligible for probation or suspension of execution of sentence unless the entire sentence has been served, except that the judge may suspend at the time of sentencing all but thirty days of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause as to why the remaining jail sentence should not be served. The judge shall order the person to pay a fine of not less than five hundred dollars.

E. The dates of the commission of the offense are the determining factor in applying the sixty month provision of subsection D of this section, irrespective of the sequence in which the offenses were committed. A second violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts.

F. If a person is referred to a screening or treatment facility, that facility shall report to the court whether the person has successfully completed the screening, education or treatment program.

G. Any political subdivision processing or utilizing the services of a person ordered to perform community restitution pursuant to this section does not incur any civil liability to the person ordered to perform community restitution as a result of these activities unless the political subdivision or its agent or employee acts with gross negligence.

H. After a person who is sentenced pursuant to subsection B of this section has served twenty-four consecutive hours in jail or after a person who is sentenced pursuant to subsection D of this section has served forty-eight consecutive hours in jail and after receiving confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence under this section, may provide in the sentence that the person may be permitted, if the person is employed or is a student and can continue the person's employment or studies, to continue such employment or studies for not more than twelve hours per day nor more than five days per week, and the remaining day, days or parts of days shall be spent in jail until the sentence is served. The person shall be allowed out of jail only long enough to complete the actual hours of employment or studies and no longer.

I. A person who is sentenced pursuant to this section is eligible for a home detention program pursuant to the provisions of section 9-499.07, subsections M through R or section 11-459, subsections L through Q.

J. The court shall allow the allegation of a prior conviction or other pending charge of a violation of section 5-395 filed twenty or more days before the date the case is actually tried and may allow the allegation of a prior conviction or other pending charge of a violation of section 5-395 filed any time before the date the case is actually tried, provided that when the allegation is filed this state must make available to the defendant a copy of any information obtained concerning the prior conviction or other pending charge. Any conviction may be used to enhance another conviction irrespective of the dates on which the offenses occurred within the sixty month provision.

K. If a person is placed on probation for violating section 5-395, the probation shall be supervised unless the court finds that supervised probation is not necessary or the court does not have supervisory probation services.

L. Persons who are convicted pursuant to section 5-395 shall pay an additional assessment of five hundred dollars or, if the person is convicted of a second violation pursuant to subsection D of this section, shall pay an

additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. These assessments are not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

M. Persons convicted pursuant to section 5-395 shall pay an additional assessment of five hundred dollars or for a second violation pursuant to subsection D of this section shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. These assessments are not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

Sec. 2. Section 5-395.01, Arizona Revised Statutes, as amended by Laws 2008, chapter 256, section 7, is amended to read:

5-395.01. Operating or in actual physical control of a motorized watercraft while under the influence; classification; penalties

A. A person who is convicted of a violation of section 5-395 is guilty of a class 1 misdemeanor. The person:

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

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

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

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

5. Shall pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court

1 shall transmit the assessed monies to the city treasurer. The city or county
2 treasurer shall transmit the monies received to the state treasurer.
3 B. In addition to any other penalties under this section, the judge
4 shall order the person to complete alcohol or other drug screening that is
5 provided by a facility approved by the department of health services or a
6 probation department. If a judge determines that the person requires further
7 alcohol or other drug education or treatment, the person may be required
8 pursuant to court order to obtain alcohol or other drug education or
9 treatment under the court's supervision from an approved facility. The judge
10 may review an education or treatment determination at the request of the
11 state or the defendant or on the judge's OWN initiative. The person shall
12 pay the costs of the screening, education or treatment unless the court
13 waives part or all of the costs. If a person is referred to a screening,
14 education or treatment facility, the facility shall report to the court
15 whether the person has successfully completed the screening, education or
16 treatment program.
17 C. Notwithstanding subsection A, paragraph 1 of this section and
18 except as provided in section 5-398.01, the judge may either:
19 1. Suspend any imposed sentence for a first violation of section 5-395
20 if the person completes a court ordered alcohol or other drug screening,
21 education or treatment program. If the person fails to complete the court
22 ordered alcohol or other drug screening, education or treatment program and
23 has not been placed on probation, the court shall issue an order to show
24 cause to the defendant as to why the remaining jail sentence should not be
25 served.
26 2. Suspend all but twenty-four consecutive hours of the sentence if
27 the person completes a court ordered alcohol or other drug screening,
28 education or treatment program and if the court determines the person
29 recklessly endangered another person with a substantial risk of physical
30 injury. If the person fails to complete the court ordered alcohol or other
31 drug screening, education or treatment program and has not been placed on
32 probation, the court shall issue an order to show cause to the defendant as
33 to why the remaining jail sentence should not be served.
34 D. If within a period of eighty-four months a person is convicted of a
35 second violation of section 5-395 or is convicted of a violation of section
36 5-395 and has previously been convicted of an act in another jurisdiction
37 that if committed in this state would be a violation of section 5-395, the
38 person:
39 1. Shall be sentenced to serve not less than ninety days in jail,
40 thirty days of which shall be served consecutively, and is not eligible for
41 probation or suspension of execution of sentence unless the entire sentence
42 has been served.
43 2. Shall pay a fine of not less than five hundred dollars.

3. Shall be ordered by the court to perform at least thirty hours of community restitution. If the person fails to complete the community restitution ordered pursuant to this paragraph, the court may order alternative sanctions if the court determines that alternative sanctions are more appropriate.

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

5. Shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

E. Notwithstanding subsection D, paragraph 1 of this section, at the time of sentencing, except if the court determines the person recklessly endangered another person with a substantial risk of physical injury, the judge may suspend all but thirty days of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause as to why the remaining jail sentence should not be served.

F. In applying the eighty-four month provision of subsection D of this section, the dates of the commission of the offense shall be the determining factor irrespective of the sequence in which the offenses were committed.

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

H. Any political subdivision processing or utilizing the services of a person ordered to perform community restitution pursuant to this section does not incur any civil liability to the person ordered to perform community restitution as a result of these activities unless the political subdivision or its agent or employee acts with gross negligence.

I. After a person who is sentenced pursuant to subsection A of this section has served twenty-four consecutive hours in jail or after a person

who is sentenced pursuant to subsection D of this section has served forty-eight consecutive hours in jail and after receiving confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence under this section, may provide in the sentence that the person may be permitted, if the person is employed or is a student and can continue the person's employment or studies, to continue such employment or studies for not more than twelve hours per day nor more than five days per week, and the remaining day, days or parts of days shall be spent in jail until the sentence is served. The person shall be allowed out of jail only long enough to complete the actual hours of employment or studies and no longer.

J. A person who is sentenced pursuant to this section is eligible for a home detention program pursuant to the provisions of section 9-499.07, subsections M through R or section 11-459, subsections L through Q.

K. The court shall allow the allegation of a prior conviction or other pending charge of a violation of section 5-395 filed twenty or more days before the date the case is actually tried and may allow the allegation of a prior conviction or other pending charge of a violation of section 5-395 filed any time before the date the case is actually tried, provided that when the allegation is filed this state must make available to the defendant a copy of any information obtained concerning the prior conviction or other pending charge. Any conviction may be used to enhance another conviction irrespective of the dates on which the offenses occurred within the eighty-four month provision.

L. If a person is placed on probation for violating section 5-395, the probation shall be supervised unless the court finds that supervised probation is not necessary or the court does not have supervisory probation services.

Sec. 3. Section 5-396, Arizona Revised Statutes, is amended to read:

5-396. <u>Aggravated operating or actual physical control of motorized watercraft while under the influence of intoxicating liquor or drugs; classification</u>

A. A person is guilty of aggravated operating or actual physical control of a motorized watercraft that is underway while under the influence of intoxicating liquor or drugs if the person commits a third or subsequent violation of section 5-395 or 5-397 or this section or is convicted of a violation of section 5-395 or 5-397 or this section and has previously been convicted of any combination of convictions of section 5-395 or 5-397 or this section or acts committed in another state that if committed in this state would be a violation of section 5-395 or 5-397 or this section within a period of sixty months.

B. The dates of the commission of the offenses are the determining factor in applying the sixty month provision provided in subsection A of this section regardless of the sequence in which the offenses were committed. For purposes of this section, a third or subsequent violation for which a

conviction occurs does not include a conviction for an offense arising out of the same series of acts.

C. Aggravated operating or actual physical control of a motorized watercraft that is underway while under the influence of intoxicating liquor or drugs is a class 4 felony.

D. Notwithstanding section 41-1604.06, a person who is convicted under subsection A of this section and who within a sixty month period has been convicted of two prior violations of section 5-395 or 5-397 or this section, or acts committed in another state that if committed in this state would be a violation of section 5-395 or 5-397 or this section, is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than four months in prison.

E. Notwithstanding section 41-1604.06, a person who is convicted under subsection A of this section and who within a sixty month period has been convicted of three or more prior violations of section 5-395 or 5-397 or this section, or acts committed in another state that if committed in this state would be a violation of section 5-395 or 5-397 or this section, is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in prison.

F. A person who is convicted of a violation of this section and who is placed on probation shall attend and complete alcohol or drug screening, counseling and education from an approved facility and, if ordered by the court, treatment from an approved facility. If the person fails to comply with this subsection, in addition to section 13-901 the court may order that the person be incarcerated as a term of probation as follows:

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

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

G. The time that a person spends in custody pursuant to subsection D, E or F of this section shall not be counted toward the sentence imposed if the person's probation is revoked and the person is sentenced to prison following revocation of probation.

H. A person convicted of a violation of this section shall pay a fine of not less than seven hundred fifty dollars.

I. In addition to any other penalty prescribed by law, persons convicted pursuant to this section shall pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal

court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

J. In addition to any other penalty prescribed by law, persons convicted pursuant to this section shall pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

Sec. 4. Section 5-397, Arizona Revised Statutes, is amended to read:

5-397. Operating or in actual physical control of a motorized watercraft while under the extreme influence of intoxicating liquor; trial by jury; sentencing; classification; definition

A. It is unlawful for a person to operate or be in actual physical control of a motorized watercraft that is underway within this state if the person has an alcohol concentration of 0.15 or more within two hours of operating or being in actual physical control of the motorized watercraft and the alcohol concentration results from alcohol consumed either before or while operating or being in actual physical control of the motorized watercraft.

B. A person who is convicted of a violation of this section is guilty of operating or being in actual physical control of a motorized watercraft while under the extreme influence of alcohol.

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

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

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

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

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

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

5. Shall pay an additional assessment of one thousand dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

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

F. If within a period of sixty months a person is convicted of a second violation of this section or is convicted of a violation of this section and has previously been convicted of a violation of section 5-395 or 5-396 or an act in another jurisdiction that if committed in this state would be a violation of this section or section 5-395 or 5-396, the person:

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

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

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

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

5. Shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

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

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

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

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

K. For the purposes of this section, "alcohol concentration" means grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

Sec. 5. Section 12-108, Arizona Revised Statutes, is amended to read:

12-108. Reports of decisions; publication; distribution

A. The supreme court may contract with the person who agrees to publish and sell the report of decisions on terms most advantageous to the state. The contractor shall agree to publish at the contract price the number of volumes as the supreme court may require. ~~and to deliver the volumes as follows:~~

~~1. To the Arizona state library, archives and public records the number of copies necessary for its use and for exchange with the libraries of other states and countries.~~

~~2. To the law library of the university of Arizona the number of copies necessary for its use and for exchange with the law libraries of other states and countries.~~

~~3. To the law library of Arizona state university the number of copies necessary for its use and for exchange with the law libraries of other states and countries.~~

~~4. To each supreme court justice, court of appeals judge, superior court judge, the clerk of each court, the county attorney and the reporter of decisions of the supreme court, one copy.~~

~~5. To the law library of each county, two copies.~~

~~6. To the department of law, thirty copies.~~

~~7. To the corporation commission, two copies.~~

~~8. To the industrial commission, seven copies.~~

~~9. To the department of public safety, two copies.~~

B. ~~All other agencies, boards, commissions and departments of the state~~ ANY ENTITY may request from the contractor ~~additional~~ ANY NUMBER OF

volumes, which shall be published and delivered at the contract price to be paid for by the requesting entity.

C. Volumes that are delivered to a person on account of the office held by that person remain the property of this state and shall have stamped or written on them the name of the office and shall be kept for the use of the office.

~~D. Subject to the availability of funds, the cost of publishing reports of decisions shall be paid from the appropriation to the supreme court. Each entity receiving a volume shall pay the cost of delivery.~~

Sec. 6. Repeal

Section 12-116, Arizona Revised Statutes, as amended by Laws 2006, chapter 369, section 2, is repealed.

Sec. 7. Section 12-119.01, Arizona Revised Statutes, is amended to read:

12-119.01. Supreme court fees; distribution

A. Except as otherwise provided by law, fees for the supreme court shall be established and classified as follows:

Class	Description	Fee
A	Initial case filing fee	
	Petitions for review and cross petitions for Review	$ 140.00
	Direct appeals and cross appeal appellant	140.00
	Special actions petitioner	140.00
B	Subsequent case filing fee	
	Intervenors direct appeals and special action	$ 70.00
	Direct appeals appellee	70.00
	Special actions respondent	70.00
	Response to petition for review	70.00
E	Minimum clerk fee	
	Certifications alone	$ 17.00
	Certificate of good standing Certificates	17.00
F	Per page fee	
	Copies - each page	$ .50
G	Special fees	
	New and duplicate certificates	$ 35.00

B. The clerk of the supreme court shall deposit, pursuant to sections 35-146 and 35-147, all of the monies collected pursuant to subsection A of this section as follows:

1. 27.78 per cent in the judicial collection enhancement fund established by section 12-113.

2. 26.00 per cent with the state treasurer for transmission to the elected officials' retirement plan fund established by section 38-802. The monies shall be transmitted by the state treasurer to the fund pursuant to section 38-810.

3. 46.22 per cent in the state general fund.

C. THE SUPREME COURT MAY INCREASE THE CLASS A AND B FEES PRESCRIBED IN SUBSECTION A OF THIS SECTION.

Sec. 8. Section 12-267, Arizona Revised Statutes, is amended to read:

12-267. Adult probation services fund; accounts; expenditure plan; use

A. The board of supervisors shall designate a chief fiscal officer who shall establish and administer an adult probation services fund consisting of:

1. County general fund appropriations for adult probation.

2. State appropriations for adult probation including:

(a) Monies for adult probation officers authorized by article 6 of this chapter.

(b) Monies for state aid for adult probation services authorized by this article.

(c) Monies for adult community punishment programs established pursuant to article 11 of this chapter.

(d) Monies for adult intensive probation pursuant to title 13, chapter 9.

3. Probation fees collected pursuant to section 13-901 AND SECTION 13-902, SUBSECTION G.

4. Federal monies provided for adult probation.

5. Adult probation monies from any other source.

B. The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the adult probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding judge of the superior court. The chief fiscal officer of each county ~~shall~~, on or before August 31 of each year for the preceding fiscal year, SHALL submit an annual report to the supreme court showing the total amount of receipts and expenditures in each account of the adult probation services fund.

C. The state monies in the adult probation services fund, AND PROBATION FEES COLLECTED PURSUANT TO SECTION 13-901 AND SECTION 13-902,

SUBSECTION G, shall be used in accordance with guidelines established by the supreme court or the granting authority.

D. State monies expended from the adult probation services fund shall be used to supplement, not supplant, county appropriations for the superior court adult probation department.

E. Up to twenty-five thousand dollars annually deposited in the adult probation services fund shall be used to pay the annual assessment on member states of the interstate compact for the supervision of adult offenders established in section 31-467, ARTICLE X, subsection B.

F. County monies in the adult probation services fund shall be used in accordance with the fiscal policies and procedures established by the board of supervisors.

G. THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PERIODICALLY CHARGE EACH LOCAL PROBATION FEES ACCOUNT AN AMOUNT ESTABLISHED ANNUALLY BY THE SUPREME COURT TO COVER A PROPORTIONAL SHARE OF THE COST OF MONITORING DEVICES REQUIRED PURSUANT TO SECTION 13-902, SUBSECTION G CONSISTENT WITH GUIDELINES ESTABLISHED TO IMPLEMENT SECTION 13-902, SUBSECTION G.

Sec. 9. Section 12-284, Arizona Revised Statutes, as amended by Laws 2008, chapter 80, section 5, is amended to read:

12-284. Fees

A. Except as otherwise provided by law, the clerk of the superior court shall receive fees classified as follows:

Class	Description	Fee
A	Initial case filing fee	
	Tax case	~~$115.00~~ 166.00
	Filing complaint or petition	~~115.00~~ 166.00
	Filing intervenor	~~115.00~~ 166.00
	Additional plaintiffs	~~115.00~~ 166.00
	Filing foreign judgment	~~115.00~~ 166.00
	Ownership of real property becomes an issue plaintiff	~~115.00~~ 166.00
	Appellant (except under sections 12-1809 and 13-3602)	~~115.00~~ 166.00
	Change of venue to this county	~~115.00~~ 166.00
	Petition for change of name	~~115.00~~ 166.00
	Filing a process server application	~~115.00~~ 166.00
B	Subsequent case filing fee	
	Filing answer or initial appearance	$ ~~61.00~~ 88.00
	Additional defendants	~~61.00~~ 88.00
	Notice of appeal to appellate courts (except under section 12-2107)	~~61.00~~ 88.00
	Cross-appeal by appellee (except under section 12-2107)	~~61.00~~ 88.00

	Ownership of real property becomes an issue defendant	~~61.00~~ 88.00
	Jurisdiction exceeded appellee (within 20 days of filing)	~~61.00~~ 88.00
	Response to show cause that does one or more of the following:	
	1. Requests affirmative relief or counterrelief	
	2. Attacks the sufficiency of process or the proceedings	
	3. Takes other affirmative action	~~61.00~~ 88.00
C	Initial case filing fee	
	Filing petition for annulment	$ ~~91.00~~ 131.00
	Filing for dissolution/legal separation petition	~~91.00~~ 131.00
	Petition in formal testacy or appointment proceeding	~~91.00~~ 131.00
	Application for informal probate or informal appointment	~~91.00~~ 131.00
	Petition for supervised administration petition to appoint guardian	~~91.00~~ 131.00
	Petition to appoint conservator or make other protective order	~~91.00~~ 131.00
	Opposing petition in testacy or appointment proceedings or appointment of guardian or conservator	~~91.00~~ 131.00
	Single estate application or petition under title 14, chapter 3, section 14-3938	~~91.00~~ 131.00
	Domestic relations case for which a fee is not specifically prescribed	~~91.00~~ 131.00
D	Subsequent case filing fee	
	Filing answer to annulment	$ ~~46.00~~ 66.00
	Filing for dissolution/legal separation answer	~~46.00~~ 66.00
	Any person opposing contested petition if no prior payment made	~~46.00~~ 66.00
	Postadjudication petitions in domestic relations cases	~~46.00~~ 66.00
	Postjudgment activities in probate cases	~~46.00~~ 66.00
E	Minimum clerk fee	
	Filing power of attorney	$ ~~18.00~~ 26.00
	Change of venue to another county transmittal fee	~~18.00~~ 26.00
	Change of venue to another county pursuant to section 12-404 transmittal fee	~~18.00~~ 26.00
	Filing transcript and docketing judgment from any courts	~~18.00~~ 26.00

	Issuance of writs of: attachment, execution, possession, restitution, prohibition and enforcement of order of judgment-garnishment	~~18.00~~ 26.00
	Certified copy or abstract of marriage application or license	~~18.00~~ 26.00
	Certificate of correctness of copy of record	~~18.00~~ 26.00
	Justice of peace certificate	~~18.00~~ 26.00
	Each certificate of clerk to any matter in clerk's record not specifically provided	~~18.00~~ 26.00
	Filing any paper or performing any act for which a fee is not specifically prescribed	~~18.00~~ 26.00
	Subpoena - (civil)	~~18.00~~ 26.00
	Research in locating a document (per year or source researched)	~~18.00~~ 26.00
	Exemplification (per certification)	~~18.00~~ 26.00
	Authentication (per certification)	~~18.00~~ 26.00
	Seal a court file	~~18.00~~ 26.00
	Reopen a sealed court file	~~18.00~~ 26.00
	Retrieve bank records	~~18.00~~ 26.00
	Reel of film alpha index per year (plus per page fee below)	~~18.00~~ 26.00
	Payment history report	~~18.00~~ 26.00
	Certification under one document certification	~~18.00~~ 26.00
	Civil traffic appeal	~~18.00~~ 26.00
F	Per page fee	
	Making copies (on appeal and on request) per page	$ .50
	Making extra copies per page	.50
	Making photographic or photostatic copies per page	.50
	Comparison fee of papers furnished by applicant per page	.50
	Alpha index per page	.50
G	Special fees	
	Small claim tax case	$ ~~15.00~~ 22.00
	Marriage license and return of a marriage license	~~50.00~~ 72.00
	Postage and handling	~~5.00~~ 7.00
	Notary services	~~5.00~~ 7.00
	Stop payment on check	~~10.00~~ 14.00

B. The clerk of the superior court shall receive the fees prescribed in subsection A of this section for the following services:

1. Making copies of papers and records required to be made by the clerk on appeal, and copies of papers and records in the clerk's office made on request in other cases, for each legal size page of original.

2. Making extra copies of the papers and records mentioned in paragraph 1 of this subsection, required or requested for each page of copy of such papers and records.

3. In a clerk's office, in which a photographic or photostatic method of recording is used or is available for use in cooperation with other public offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection for each page of copy or fraction of a page of copy. Portions of several pages of records may be combined in one page of copy. The clerk may prepare an abstract of marriage in lieu of a reproduction of the recorded marriage license. The fee shall apply to matters whether recorded in such office by longhand, typing, electronic, photographic or photostatic methods. The fees for copies are exclusive of the fees for certification or authentication.

4. Issuing a certificate as to official capacity of a justice of the peace and affixing a seal to the certificate.

5. Each subpoena issued in a civil proceeding or filing any paper or performing any act for which a fee is not specifically prescribed by law, but the clerk shall not charge for the clerk's services in administering the oath in connection with any affidavit, petition, letters or other pleading or document which, after administration of the oath therefor, is promptly filed by the clerk and becomes a part of a case or matter of record in the office of the clerk.

C. In addition to the fees required by subsection A of this section, the clerk shall charge and collect a surcharge of fifteen dollars for each filing of a postadjudication petition in a domestic relations case for which a fee presently is charged under class D in subsection A of this section. The surcharge shall be used exclusively to fund domestic relations education and mediation programs established pursuant to section 25-413. Each month the clerk shall transmit the monies the clerk collects pursuant to this subsection to the county treasurer for deposit in the domestic relations education and mediation fund established by section 25-413.

D. Excluding the monies that are collected pursuant to subsection C of this section, each month the clerk shall transmit seventy-five per cent of the monies collected for subsequent case filing fees for postadjudication petitions in domestic relations cases under class D in subsection A of this section to the county treasurer for deposit in the expedited child support and parenting time fund established pursuant to section 25-412. The remaining twenty-five per cent of the monies collected pursuant to this subsection shall be distributed pursuant to section 12-284.03.

E. At the commencement of each action for annulment, dissolution of marriage, legal separation, maternity or paternity, the petitioner shall pay to the clerk of the court the initial case filing fee for the action provided in subsection A of this section. At the time of filing a response, the respondent shall pay to the clerk of the court the subsequent case filing fee for the action provided in subsection A of this section. In each county where the superior court has established a conciliation court, the petitioner

1 and respondent shall each pay to the clerk a sixty-five dollar fee. The
2 monies from the additional fee shall be used to carry out the purposes of the
3 conciliation court pursuant to title 25, chapter 3, article 7.
4 F. In garnishment matters:
5 1. A fee shall not be charged for filing an affidavit seeking only the
6 release of exempt wages.
7 2. A fee shall not be charged for filing a garnishee's answer, for
8 filing a judgment against the garnishee or for the issuance or return of
9 process incident to such a judgment.
10 3. For any contest relating to or any controversion of a garnishment
11 matter, unless the contesting party has paid an appearance fee in that cause,
12 the required appearance fee shall be paid, except that the garnishee shall
13 not pay a clerk's fee.
14 G. A person who is cited to appear and defend an order to show cause
15 shall not be charged an appearance fee. The person may stipulate to or
16 consent to the entry of an order without the payment of an appearance
17 fee. An appearance fee shall be paid if the person is present in person or
18 by an attorney and does one or more of the following:
19 1. Requests affirmative relief or counterrelief.
20 2. Attacks the sufficiency of process or the proceedings.
21 3. Takes other affirmative action.
22 H. A petitioner shall not be charged a fee for requesting an order of
23 protection pursuant to section 13-3602 or an injunction against harassment
24 pursuant to section 12-1809. A defendant shall not be charged an answer fee
25 in an order of protection action if the defendant requests a hearing pursuant
26 to section 13-3602, subsection I or in an injunction against harassment
27 action if the defendant requests a hearing pursuant to section 12-1809,
28 subsection H.
29 I. A person who files a registrar's order pursuant to section
30 32-1166.06 shall not be charged a fee.
31 J. The clerk of the court shall charge and collect a forty-six dollar
32 filing fee for a petition for emancipation of a minor filed pursuant to
33 chapter 15 of this title. Each month the clerk shall transmit the monies the
34 clerk collects pursuant to this subsection to the county treasurer for
35 deposit in the emancipation administrative costs fund established by section
36 12-2456.
37 K. Except for monies that are collected pursuant to subsections C, D,
38 E and J of this section, the clerk of the superior court shall transmit
39 monthly to the county treasurer all monies collected pursuant to this section
40 for distribution or deposit pursuant to section 12-284.03.
41 L. THE SUPREME COURT MAY INCREASE THE FEES PRESCRIBED IN SUBSECTION A
42 OF THIS SECTION IN AN AMOUNT NOT TO EXCEED THE PER CENT OF CHANGE IN THE
43 AVERAGE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF
44 LABOR, BUREAU OF LABOR STATISTICS BETWEEN THAT FIGURE FOR THE LATEST CALENDAR
45 YEAR AND THE CALENDAR YEAR IN WHICH THE LAST FEE INCREASE OCCURRED.

Sec. 10. Section 13-902, Arizona Revised Statutes, is amended to read:

13-902. Periods of probation; monitoring; fees

A. Unless terminated sooner, probation may continue for the following periods:

1. For a class 2 felony, seven years.
2. For a class 3 felony, five years.
3. For a class 4 felony, four years.
4. For a class 5 or 6 felony, three years.
5. For a class 1 misdemeanor, three years.
6. For a class 2 misdemeanor, two years.
7. For a class 3 misdemeanor, one year.

B. Notwithstanding subsection A of this section, unless terminated sooner, probation may continue for the following periods:

1. For a violation of section 28-1381 or 28-1382, five years.
2. For a violation of section 28-1383, ten years.

C. When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time before the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than five years.
2. For a misdemeanor, not more than two years.

D. Notwithstanding any other provision of law, justice courts and municipal courts may impose the probation periods specified in subsection A, paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

E. After conviction of a felony offense or an attempt to commit any offense that is included in chapter 14 or 35.1 of this title or section 13-2308.01, 13-2923 or 13-3623, if probation is available, probation may continue for a term of not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

F. After conviction of a violation of section 13-3824, subsection A, if a term of probation is imposed and the offense for which the person was required to register was a felony, probation may continue for a term of not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

G. ~~Beginning November 1, 2006,~~ After conviction of a dangerous crime against children as defined in section 13-604.01, if a term of probation is imposed, the court shall require global position system monitoring for the duration of the term of probation. THE COURT MAY IMPOSE A FEE ON THE PROBATIONER TO OFFSET THE COST OF THE MONITORING DEVICE REQUIRED BY THIS SUBSECTION. THE FEE SHALL BE DEPOSITED IN THE ADULT PROBATION SERVICES FUND PURSUANT TO SECTION 12-267, SUBSECTION A, PARAGRAPH 3.

Sec. 11. Section 22-281, Arizona Revised Statutes, is amended to read:

22-281. Fees and deposits

A. Justices of the peace shall receive fees established and classified as follows in civil actions:

Class	Description	Fee
A	Initial case filing fee	
	Civil filing fees	$ ~~45.00~~ 65.00
B	Subsequent case filing fee	
	Civil filing fees - defendant	$ ~~24.00~~ 35.00
C	Initial case filing fee	
	Forcible entry and detainer filings	$ ~~21.00~~ 30.00
	Small claims filing	~~16.00~~ 23.00
D	Subsequent case filing fee	
	Small claims answer	$ ~~9.00~~ 13.00
	Forcible entry and detainer filings - defendant	~~11.00~~ 16.00
E	Minimum clerk fee	
	Document and transcript transfer on appeal	$ ~~17.00~~ 24.00
	Certification of any documents	~~17.00~~ 24.00
	Issuance of writs	~~17.00~~ 24.00
	Filing any paper or performing any act for which a fee is not specifically prescribed	~~17.00~~ 24.00
	Subpoena (civil)	~~17.00~~ 24.00
	Research in locating a document	~~17.00~~ 24.00
	Seal a court file	~~17.00~~ 24.00
	Reopen a sealed court file	~~17.00~~ 24.00
	Record duplication	~~17.00~~ 24.00
F	Per page fee	
	Copies of any documents per page	$ 0.50
G	Special fees	
	Small claims service by mail	$ 8.00

B. This section does not deprive the parties to the action of the privilege of depositing amounts with the justice, in addition to those set forth in this section, for use in connection with the payment of constable's and sheriff's fees for service of process, levying of writs and other services for which fees are otherwise provided by law.

C. Excluding the monies that are kept by the court pursuant to subsection D of this section, justices of the peace shall transmit monthly to the county treasurer all monies collected pursuant to subsection A of this section. The county treasurer shall distribute or deposit all of the monies received pursuant to this subsection as follows:

1. ~~18.39 per cent~~ To the state treasurer for deposit in the judicial collection enhancement fund established by section 12-113~~.~~, IN THE FOLLOWING PERCENTAGES:

(a) 14.02 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(b) 15.58 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS.

2. ~~2.42 per cent~~ To the state treasurer for deposit in the alternative dispute resolution fund established by section 12-135~~.~~, IN THE FOLLOWING PERCENTAGES:

(a) 1.84 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(b) 2.05 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS.

3. TO THE ELECTED OFFICIALS' RETIREMENT PLAN FUND ESTABLISHED BY SECTION 38-802, EITHER OF THE FOLLOWING PERCENTAGES, WHICH SHALL BE DISTRIBUTED TO THE FUND PURSUANT TO SECTION 38-810:

(a) 23.79 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(b) 15.30 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS.

~~3.~~ 4. ~~71.15 per cent~~ To the county general fund~~.~~, IN THE FOLLOWING PERCENTAGES:

(a) 54.22 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(b) 60.26 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS.

D. ~~8.04~~ IN COUNTIES WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS, 6.13 per cent of the monies transmitted pursuant to subsection C of this section shall be kept and used by the court collecting the fees in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

E. IN COUNTIES WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS, 6.81 PER CENT OF THE MONIES TRANSMITTED PURSUANT TO SUBSECTION C OF THIS SECTION SHALL BE KEPT AND USED BY THE COURT COLLECTING THE FEES IN THE SAME MANNER AS THE SEVEN DOLLARS OF THE TIME PAYMENT FEE PRESCRIBED BY SECTION 12-116, SUBSECTION B.

F. THE SUPREME COURT MAY INCREASE THE FEES PRESCRIBED IN SUBSECTION A OF THIS SECTION IN AN AMOUNT NOT TO EXCEED THE PER CENT OF CHANGE IN THE AVERAGE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS BETWEEN THAT FIGURE FOR THE LATEST CALENDAR YEAR AND THE CALENDAR YEAR IN WHICH THE LAST FEE INCREASE OCCURRED.

Sec. 12. Section 28-1381, Arizona Revised Statutes, is amended to read:

28-1381. Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Shall pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

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

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

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

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

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

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

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

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

6. Shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This

assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

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

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

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

Sec. 13. Section 28-1382, Arizona Revised Statutes, as amended by Laws 2007, chapter 219, section 2, is amended to read:

28-1382. <u>Driving or actual physical control while under the extreme influence of intoxicating liquor; trial by jury; sentencing; classification</u>

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

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

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

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

1. Except as otherwise provided in this paragraph, shall be sentenced to serve not less than thirty consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served. A person who has an alcohol concentration of 0.20 or more shall be sentenced to serve not less than forty-five consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.

2. Shall pay a fine of not less than two hundred fifty dollars, except that a person who has an alcohol concentration of 0.20 or more shall pay a fine of not less than five hundred dollars. The fine prescribed in this paragraph and any assessments, restitution and incarceration costs shall be paid before the assessment prescribed in paragraph 3 of this subsection.

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

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

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

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

7. Shall pay an additional assessment of one thousand dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

~~E. Notwithstanding subsection D, paragraph 1 of this section, at the time of sentencing if the person has an alcohol concentration of less than 0.20, the judge may suspend all but ten days of the sentence if the person completes a court ordered alcohol or other drug screening, education or~~

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

~~F.~~ E. If within a period of eighty-four months a person is convicted of a second violation of this section or is convicted of a violation of this section and has previously been convicted of a violation of section 28-1381 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of this section or section 28-1381 or 28-1383, the person:

1. Except as otherwise provided in this paragraph, shall be sentenced to serve not less than one hundred twenty days in jail, sixty days of which shall be served consecutively, and is not eligible for probation or suspension of execution of sentence unless the entire sentence has been served. A person who has an alcohol concentration of 0.20 or more shall be sentenced to serve not less than one hundred eighty days in jail, ninety of which shall be served consecutively, and is not eligible for probation or suspension of execution of sentence unless the entire sentence has been served.

2. Shall pay a fine of not less than five hundred dollars, except that a person who has an alcohol concentration of 0.20 or more shall pay a fine of not less than one thousand dollars. The fine prescribed in this paragraph and any assessments, restitution and incarceration costs shall be paid before the assessment prescribed in paragraph 3 of this subsection.

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

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

5. Shall have the person's driving privilege revoked for at least one year. The court shall report the conviction to the department. On receipt of the report, the department shall revoke the person's driving privilege and shall require the person to equip any motor vehicle the person operates with a certified ignition interlock device pursuant to section 28-3319. In addition, the court may order the person to equip any motor vehicle the person operates with a certified ignition interlock device for more than twelve months beginning on the date of reinstatement of the person's driving privilege following a suspension or revocation or on the date of the department's receipt of the report of conviction, whichever is later. The

person who operates a motor vehicle with a certified ignition interlock device under this paragraph shall comply with article 5 of this chapter.

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

7. Shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

~~G. Notwithstanding subsection F, paragraph 1 of this section, at the time of sentencing, if the person has an alcohol concentration of less than 0.20, the judge may suspend all but sixty days of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause as to why the remaining jail sentence should not be served.~~

~~H.~~ F. In applying the eighty-four month provision of subsection ~~F~~ E of this section, the dates of the commission of the offense shall be the determining factor, irrespective of the sequence in which the offenses were committed.

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

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

Sec. 14. Repeal

Section 28-1382, Arizona Revised Statutes, as amended by Laws 2007, chapter 195, section 3, is repealed.

Sec. 15. Section 28-1383, Arizona Revised Statutes, is amended to read:

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

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

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

2. Within a period of eighty-four months commits a third or subsequent violation of section 28-1381, section 28-1382 or this section or is convicted of a violation of section 28-1381, section 28-1382 or this section and has previously been convicted of any combination of convictions of section 28-1381, section 28-1382 or this section or acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section.

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

(a) Section 28-1381.

(b) Section 28-1382.

4. While the person is ordered by the court or required pursuant to section 28-3319 by the department to equip any motor vehicle the person operates with a certified ignition interlock device, does either of the following:

(a) While under arrest refuses to submit to any test chosen by a law enforcement officer pursuant to section 28-1321, subsection A.

(b) Commits a violation of section 28-1381, section 28-1382 or this section.

B. The dates of the commission of the offenses are the determining factor in applying the eighty-four month provision provided in subsection A, paragraph 2 of this section regardless of the sequence in which the offenses were committed. For the purposes of this section, a third or subsequent violation for which a conviction occurs does not include a conviction for an offense arising out of the same series of acts. The time that a probationer is found to be on absconder status or the time that a person is incarcerated in any state, federal, county or city jail or correctional facility is excluded when determining the eighty-four month period provided in subsection A, paragraph 2 and subsection E of this section.

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

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

1. Subsection A, paragraph 1 of this section.

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

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

F. A person who is convicted under subsection A, paragraph 3, subdivision (a) of this section shall serve at least the minimum term of incarceration required pursuant to section 28-1381.

G. A person who is convicted under subsection A, paragraph 3, subdivision (b) of this section shall serve at least the minimum term of incarceration required pursuant to section 28-1382.

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

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

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

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

J. On a conviction for a violation of this section, the court:

1. Shall report the conviction to the department. On receipt of the report, the department shall revoke the driving privilege of the person. The department shall not issue the person a new driver license within three years of the date of the conviction and, for a conviction of a violation of

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

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

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

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

5. In addition to any other penalty prescribed by law, shall order the person to pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

K. After completing the period of suspension required by section 28-1385, a person whose driving privilege is revoked for a violation of subsection A, paragraph 3 of this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401.

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

1. Subsection A, paragraph 1 or 2 or paragraph 4, subdivision (b) of this section is a class 4 felony.

2. Subsection A, paragraph 3 or paragraph 4, subdivision (a) of this section is a class 6 felony.

M. For the purposes of this section, "suspension, cancellation, revocation or refusal" means any suspension, cancellation, revocation or refusal.

Sec. 16. Section 28-1593, Arizona Revised Statutes, is amended to read:

28-1593. Service of uniform traffic complaint

A. A traffic complaint may be served by delivering a copy of the uniform traffic complaint citation to the person charged with the violation or by any means authorized by the rules of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a traffic accident may be sent by certified mail, return receipt requested~~,~~ AND delivered to addressee only, to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

B. The original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A peace officer, or duly authorized agent OR SOMEONE PAID TO ACT ON BEHALF of a traffic enforcement agency, may issue the traffic complaint.

C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A CIVIL TRAFFIC VIOLATION ISSUED PURSUANT TO SECTION 41-1722 MAY BE ISSUED PURSUANT TO A NOTICE OF VIOLATION BEFORE A CITATION IS FILED IN COURT.

D. IF A PERSON FAILS TO RESPOND TO THE NOTICE OF VIOLATION OR CONTESTS RESPONSIBILITY, A UNIFORM TRAFFIC COMPLAINT CITATION SHALL BE SERVED AND FILED AS OTHERWISE PROVIDED IN THIS SECTION.

E. THE SUPREME COURT SHALL ESTABLISH RULES GOVERNING THE ISSUANCE, SERVICE AND PROCESSING OF THE NOTICE OF VIOLATION, INCLUDING RULES ALLOWING A PERSON TO ADMIT RESPONSIBILITY BEFORE A CITATION IS FILED IN COURT.

1 Sec. 17. Section 28-3396, Arizona Revised Statutes, is amended to
2 read:
3 28-3396. Court diversion fee
4 A. The presiding judge of each court shall:
5 1. Set the amount of the court diversion fee that an individual who
6 attends a defensive driving school may be assessed.
7 2. CHARGE AN INDIVIDUAL A FORTY-FIVE DOLLAR SURCHARGE IF THE
8 INDIVIDUAL ATTENDS A DEFENSIVE DRIVING SCHOOL.
9 ~~2.~~ 3. Immediately inform the supreme court in writing of the amount
10 of the court diversion fee that is established for the court and the total
11 cost to attend a defensive driving school.
12 ~~3.~~ 4. Immediately inform the supreme court in writing of any changes
13 in the total cost to attend a defensive driving school.
14 B. Payment of the court diversion fee AND SURCHARGE is in lieu of
15 payment of a civil penalty or criminal fine AND ANY SURCHARGE that ~~is~~ ARE
16 imposed for a traffic violation.
17 C. The driving school shall collect the court diversion fee AND
18 SURCHARGE before or at the time an individual attends the school. On receipt
19 of the diversion fee, the defensive driving school shall transmit the fee
20 promptly to the appropriate court pursuant to procedures prescribed by the
21 supreme court. ON RECEIPT OF THE SURCHARGE, THE DEFENSIVE DRIVING SCHOOL
22 SHALL TRANSMIT THE SURCHARGE PROMPTLY TO THE STATE TREASURER FOR DEPOSIT,
23 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND.
24 Sec. 18. Section 28-8284, Arizona Revised Statutes, is amended to
25 read:
26 28-8284. Violation; classification
27 A. A person who is convicted of a violation of section 28-8282 is
28 guilty of a class 1 misdemeanor and shall be sentenced to serve not less than
29 twenty-four consecutive hours in jail.
30 B. The court shall order the person to pay a fine of not less than two
31 hundred fifty dollars and may order the person to perform not less than eight
32 or more than twenty-four hours of community restitution.
33 C. A court shall not grant probation to or suspend any part or all of
34 the imposition or execution of a sentence required by this section, except on
35 the condition that the person serve not less than twenty-four consecutive
36 hours in jail and pay a fine of not less than two hundred fifty dollars.
37 D. The court:
38 1. Shall not excuse an offender from spending twenty-four consecutive
39 hours in jail.
40 2. May require the offender to attend traffic safety or alcohol abuse
41 classes at the offender's expense.
42 3. If in the court's opinion the offender has the problem of habitual
43 abuse of alcohol or drugs, shall require the offender to obtain treatment
44 under its supervision.

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

5. Shall order the offender to pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

E. Notwithstanding subsection A of this section, the judge may sentence a person pursuant to section 28-8286 instead of pursuant to subsection A of this section, if all of the following conditions are met:

1. The person is convicted of a violation of section 28-8282.

2. The prosecutor alleges the provisions of this subsection.

3. The court finds that alternative sentencing will serve the best interests of this state and that the person:

(a) Has not been convicted of one or more violations of section 28-8282 within sixty months of the date of commission of the acts out of which the charges arose. The dates of commission of the offense are the determining factor in applying this paragraph.

(b) Was not flying with 0.08 per cent or more by weight of alcohol in the person's blood.

(c) Did not cause serious physical injury as defined in section 13-105 to another person during the same event or course of conduct that resulted in the conviction for which the person is to be sentenced.

Sec. 19. Section 28-8286, Arizona Revised Statutes, is amended to read:

28-8286. <u>Alternative sentencing</u>

If pursuant to section 28-8284, subsection E a court orders a person convicted of a violation of section 28-8282 to be sentenced pursuant to this section, the court:

1. Shall order the person to pay a fine of not less than two hundred fifty dollars.

2. May order the person to perform not less than eight or more than twenty-four hours of community restitution.

3. May require the person to attend traffic safety or alcohol abuse classes at the person's expense.

4. If in the court's opinion the person has the problem of habitual abuse of alcohol or drugs, shall require the person to obtain treatment under its supervision.

5. Shall not suspend any part or all of the imposition or execution of any sentence required by this section.

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

7. Shall order the person to pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

Sec. 20. Section 28-8287, Arizona Revised Statutes, is amended to read:

28-8287. Second offense

A. If a person is convicted of a second violation of section 28-8282 or is convicted of a violation of section 28-8282 and has previously been convicted of an act in another state that if committed in this state would be a violation of section 28-8282 within a period of sixty months:

1. The person is guilty of a class 1 misdemeanor.

2. The person shall be sentenced to serve not less than sixty days in jail.

3. The court shall order the person to pay a fine of not less than five hundred dollars.

4. The court shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this subsection, except on the condition that the person serve not less than sixty days in jail and pay a fine of not less than five hundred dollars.

5. If in the court's opinion the offender has the problem of habitual abuse of alcohol or drugs, the court shall require the person to obtain treatment under its supervision.

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

7. The person shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

B. The dates of the commission of the offense are the determining factor in applying this section.

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

Sec. 21. Section 28-8288, Arizona Revised Statutes, is amended to read:

28-8288. Third or subsequent offense

A. If a person is convicted of a third or subsequent violation of section 28-8282 or is convicted of a violation of section 28-8282 and has previously been convicted of any combination of convictions of section 28-8282 or acts committed in another state that if committed in this state would be a violation of section 28-8282 within a period of sixty months:

1. The person is guilty of a class 5 felony.

2. The person is not eligible for probation, pardon, suspension of sentence or release on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not less than six months in prison.

3. The court shall not suspend the imposition of a prison sentence.

4. If in the court's opinion the person has the problem of habitual abuse of alcohol or drugs, the court shall require the person to obtain treatment under its supervision.

5. In addition to any other penalty prescribed by law, the person shall pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice

court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

6. In addition to any other penalty prescribed by law, the person shall pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the ~~state general fund~~ PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

B. The dates of the commission of the offense are the determining factor in applying this section.

C. A third or subsequent violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts.

Sec. 22. Section 38-810, Arizona Revised Statutes, as amended by Laws 2008, chapter 80, section 10, is amended to read:

38-810. Contributions

A. Each member shall contribute to the fund an amount equal to seven per cent of the member's gross salary. Contributions of members shall be made by payroll deductions. Every member is deemed to consent to these deductions. Payment of a member's compensation, less these payroll deductions, constitutes a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration for the member's services rendered during the period covered by the payment, except with respect to the benefits provided under the plan.

B. The fund manager's office shall be credited monthly with monies collected pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31, subsection D, paragraph 2, section 12-284.03, subsection A, paragraph 6, SECTION 22-281, SUBSECTION C, PARAGRAPH 3 and section 41-178. The monies credited to the fund pursuant to this subsection shall be deposited in the fund on a monthly basis, and there shall be a complete accounting of the determination of these monies deposited in the fund.

C. As determined by actuarial valuations performed by the plan's actuary, each employer shall make level per cent compensation contributions sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005, a rolling period of at least twenty and not more than thirty years that is established by the fund manager taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, the employer contribution rate shall not be less than ten per cent of salary. The monies deposited in the fund pursuant to

subsection B of this section shall be used to reduce the contributions required of state and county employers only. Employers that entered the system under a joinder agreement shall also contribute an amount equal to the unfunded accrued liability for that employer. The unfunded liability for each new employer shall be actuarially determined by the plan's actuary as of the effective date of participation of each employer and shall be payable on the effective date of participation. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The fund manager shall separately account for these monies in the fund. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of the fund contains excess valuation assets and is more than one hundred per cent funded, the fund manager shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of the fund has a valuation asset deficiency and an unfunded actuarial accrued liability, the fund manager shall use any valuation assets in the stabilization reserve account, to the extent available, to limit the decline in the fund's funding ratio to not more than two per cent.

D. The department of administration and the treasurer of each county and participating city and town shall transfer to the fund manager the contributions provided for in subsections A and C of this section within ten working days after each payroll date. The state, county treasurers and clerks of the superior court shall transfer the monies credited under subsection B of this section to the fund manager on or before the fifteenth day of each calendar month that follows the month in which the court fees were collected. Contributions and monies credited under subsection B of this section and transferred after these dates shall include a penalty equal to ten per cent ~~per annum~~ A YEAR, compounded annually, for each day that the contributions or monies credited under subsection B of this section are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection and court costs, may be recovered by action in a court of competent jurisdiction against the person or persons responsible for the payments or, at the request of the fund manager, may be deducted from any other monies including excise revenue taxes payable to a political subdivision by any department or agency of this state. If requested by the fund manager, the state, county treasurers or clerks of the superior court shall transfer the monies credited under subsection B of this section, in an amount determined by the fund manager, directly to the qualified governmental excess benefit arrangement established pursuant to section 38-803.01.

E. The employer shall pay the member contributions required of members on account of compensation earned after August 7, 1985. The paid

contributions shall be treated as employer contributions for the purpose of determining tax treatment under the United States internal revenue code. The effective date of the employer payment shall not be before the date the retirement plan has received notification from the United States internal revenue service that pursuant to section 414(h) of the United States internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or pension payments. The employer shall pay the member contributions from monies established and available in the retirement deduction account, which monies would otherwise have been designated as member contributions and paid to the retirement plan. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before August 7, 1985.

Sec. 23. Title 41, chapter 12, article 2, Arizona Revised Statutes, is amended by adding sections 41-1722 and 41-1723, to read:

41-1722. State photo enforcement system; penalties; fund

A. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT SHALL ENTER INTO A CONTRACT OR CONTRACTS WITH A PRIVATE VENDOR OR VENDORS PURSUANT TO CHAPTER 23 OF THIS TITLE TO ESTABLISH A STATE PHOTO ENFORCEMENT SYSTEM CONSISTING OF CAMERAS PLACED THROUGHOUT THIS STATE AS DETERMINED BY THE DIRECTOR TO ENFORCE THE PROVISIONS OF TITLE 28, CHAPTER 3, ARTICLES 3 AND 6 RELATING TO VEHICLE TRAFFIC AND SPEED.

B. NOTWITHSTANDING ANY OTHER LAW, THE CIVIL PENALTY OR FINE FOR A CITATION OR A NOTICE OF VIOLATION ISSUED PURSUANT TO THIS SECTION IS ONE HUNDRED SIXTY-FIVE DOLLARS AND IS NOT SUBJECT TO ANY SURCHARGE EXCEPT THE SURCHARGE IMPOSED BY SECTION 16-954. STATE PHOTO ENFORCEMENT CITATIONS SHALL NOT BE INCLUDED IN JUDICIAL PRODUCTIVITY CREDIT CALCULATIONS FOR FISCAL YEAR 2008-2009.

C. THE PHOTO ENFORCEMENT FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED FROM CITATIONS OR NOTICES OF VIOLATION ISSUED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND ARE APPROPRIATED TO THE DEPARTMENT FOR ADMINISTRATIVE AND PERSONNEL COSTS OF THE STATE PHOTO ENFORCEMENT SYSTEM. MONIES REMAINING IN THE FUND IN EXCESS OF TWO HUNDRED FIFTY THOUSAND DOLLARS AT THE END OF EACH CALENDAR QUARTER SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND.

D. NOTWITHSTANDING ANY OTHER LAW, IF A PERSON IS FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION OR A NOTICE OF VIOLATION PURSUANT TO A CITATION ISSUED PURSUANT TO THIS SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED. A COURT SHALL NOT TRANSMIT ABSTRACTS OF RECORDS OF THESE VIOLATIONS TO THE DEPARTMENT OF TRANSPORTATION.

41-1723. Public safety equipment fund; distribution

THE PUBLIC SAFETY EQUIPMENT FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED IN THE FUND PURSUANT TO SECTIONS 5-395.01, 5-396, 5-397, 28-1381, 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 AND 28-8288. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND SHALL BE DISTRIBUTED AS FOLLOWS:

1. THE FIRST THREE MILLION DOLLARS RECEIVED EACH FISCAL YEAR AS A CONTINUING APPROPRIATION TO THE DEPARTMENT FOR PROTECTIVE ARMOR, ELECTRONIC STUN DEVICES AND OTHER SAFETY EQUIPMENT. MONIES APPROPRIATED PURSUANT TO THIS PARAGRAPH ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

2. ALL OTHER MONIES EACH FISCAL YEAR SHALL BE DEPOSITED IN THE STATE GENERAL FUND.

Sec. 24. Transfer and renumber; heading change

A. Title 41, chapter 12, article 12, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 32, Arizona Revised Statutes, as article 4.

B. The article heading of title 41, chapter 32, article 4, Arizona Revised Statutes, as transferred and renumbered by this act, is changed from "ARIZONA PUBLIC SAFETY COMMUNICATIONS COMMISSION" to "ARIZONA PUBLIC SAFETY COMMUNICATIONS ADVISORY COMMISSION".

Sec. 25. Section 41-1830.41, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 32, article 4, Arizona Revised Statutes, as transferred and renumbered by this act, as section 41-3541 and, as so renumbered, is amended to read:

41-3541. Arizona public safety communications advisory commission; membership; appointment; terms; meetings

A. An Arizona public safety communications advisory commission is established in the ~~department of public safety~~ AGENCY consisting of the director ~~of the department~~ or the director's designee and fourteen other advisory members WHO ARE appointed by the governor pursuant to section 38-211.

B. The governor shall make the appointments so that the existing five emergency response regions in this state are as equally represented on the advisory commission as possible.

C. Members shall serve three year terms.

D. The Arizona public safety communications advisory commission shall meet quarterly or on call of the director who shall serve as chairman.

E. Commission members are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 26. Section 41-1830.42, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 32, article 4, Arizona Revised Statutes, as transferred and renumbered by this act, as section 41-3542 and, as so renumbered, is amended to read:

41-3542. Advisory commission; powers and duties; report

A. The Arizona public safety communications advisory commission shall make recommendations to the ~~department~~ AGENCY regarding the development and maintenance of work plans to outline areas of work to be performed and appropriate schedules for at least the following:

1. The development of a standard based system that provides interoperability of public safety agencies' communications statewide.

2. The promotion of the development and use of standard based systems.

3. The identification of priorities and essential tasks determined by the advisory commission.

4. The development of a timeline for project activities.

5. Completion of a survey of existing and planned efforts statewide and benchmark against similar efforts nationally.

6. Providing support for the state interoperability executive committee.

7. Establishing committees and work groups as necessary.

B. The ~~department~~ AGENCY may:

1. Employ personnel as required with available monies.

2. Enter into contracts to assess, design, construct and use public safety communications systems.

3. Accept grants, fees and other monies for use by the ~~department~~ AGENCY and the advisory commission.

4. Enter into agreements to carry out the purposes of this article.

5. Request cooperation from any state agency for the purposes of this article.

C. The department of public safety shall consult with the director of the government information technology agency or the director's designee on an ongoing basis. ~~and~~ THE DIRECTOR OF THE GOVERNMENT INFORMATION TECHNOLOGY AGENCY SHALL submit a QUARTERLY report ~~quarterly to the director and~~ TO the joint legislative budget committee for review regarding expenditures and progress of the ~~department of public safety~~ COMMISSION, including a review of staff operations and preparation of requests for proposals for system detail and concept work.

D. The commission shall annually submit a report of its activities and recommendations to the governor, the speaker of the house of representatives and the president of the senate on or before December 1 and shall provide a copy of the report to the secretary of state and the director of the Arizona state library, archives and public records.

Sec. 27. Section 41-3014.16, Arizona Revised Statutes, is amended to read:

41-3014.16. Arizona public safety communications advisory commission; termination July 1, 2014

A. The Arizona public safety communications advisory commission terminates on July 1, 2014.

B. Title 41, chapter ~~12~~ 32, article ~~12~~ 4 is repealed on January 1, 2015.

Sec. 28. Laws 2000, chapter 293, section 598, as amended by Laws 2001, chapter 8, section 2, Laws 2002, chapter 291, section 17, Laws 2004, chapter 69, section 5 and Laws 2006, chapter 369, section 12, is amended to read:

Sec. 598. Effective date

~~A. Section 12-116, Arizona Revised Statutes, as amended by Laws 1999, chapter 175, section 6, Laws 2000, chapter 193, section 94, laws 2004, chapter 69, section 3 and this act is effective from and after December 31, 2009.~~

~~B.~~ A. Section 42-1201, Arizona Revised Statutes, as amended by Laws 1999, chapter 250, section 7, ~~and this act~~ is effective from and after December 31, 2000.

~~C.~~ B. Section 49-203, Arizona Revised Statutes, as amended by Laws 1999, chapter 26, section 5, ~~and this act~~ is effective from and after December 31, 2000.

~~D.~~ C. Section 49-361, Arizona Revised Statutes, as amended by Laws 1999, chapter 26, section 17, ~~and this act~~ is effective from and after December 31, 2000.

Sec. 29. Laws 2000, chapter 193, section 599, as amended by Laws 2001, chapter 8, section 3, Laws 2002, chapter 291, section 18, Laws 2004, chapter 69, section 6 and Laws 2006, chapter 369, section 13, is amended to read:

Sec. 599. Delayed repeal

~~A. Section 12-116, Arizona Revised Statutes, as amended by Laws 1997, chapter 79, section 7, Laws 2000, chapter 193, section 93, laws 2004, chapter 69, section 2 and this act is repealed from and after December 31, 2009.~~

~~B.~~ A. Section 42-1201, Arizona Revised Statutes, as amended by Laws 1998, chapter 1, section 144, ~~and this act~~ is repealed from and after December 31, 2000.

~~C.~~ B. Section 49-203, Arizona Revised Statutes, as amended by Laws 1996, chapter 194, section 5, chapter 351, section 39, ~~and this act~~ is repealed from and after December 31, 2000.

Sec. 30. State department of corrections budget structure

Notwithstanding any other law, the state department of corrections shall report actual fiscal year 2007-2008, estimated fiscal year 2008-2009 and requested fiscal year 2009-2010 expenditures for each line item delineated in the fiscal year 2008-2009 general appropriation act when the department submits the fiscal year 2009-2010 budget request pursuant to section 35-113, Arizona Revised Statutes. The information submitted for each

line item shall contain as much detail as submitted in previous years for prior line items.

Sec. 31. Criminal justice enhancement fund; state general fund deposit; crime laboratory assessment fund

Notwithstanding any other law, for fiscal year 2008-2009, any monies distributed from the criminal justice enhancement fund pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, shall be deposited in the crime laboratory assessment fund established by section 41-2415, Arizona Revised Statutes. Notwithstanding section 41-2415, subsection C, Arizona Revised Statutes, monies distributed by this section pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, are for use by the department of public safety and are exempt from distribution to political subdivisions.

Sec. 32. Justices of the peace; payment of compensation; fiscal year 2007-2008

Notwithstanding section 22-117, subsection B, Arizona Revised Statutes, for fiscal year 2008-2009, the state shall pay 38.5 per cent of the compensation and employee-related expenditures of a justice of the peace and the county shall pay 61.5 per cent of the compensation and employee-related expenditures of a justice of the peace, except that the county shall pay the full amount of the employer contribution of the state retirement system or plan or any county health plan.

Sec. 33. Consumer fraud revolving fund; attorney general; use

Notwithstanding section 44-1531.01, subsection C, Arizona Revised Statutes, for fiscal years 2007-2008 and 2008-2009, the attorney general may use monies in the consumer fraud revolving fund established by section 44-1501.01, Arizona Revised Statutes, for any operating expenses incurred by the department of law, including any cost or expense associated with the tobacco master settlement agreement arbitration.

Sec. 34. Transition office fund; department of corrections; transition program use; retroactivity

A. Notwithstanding any other law, any monies appropriated to the transition office fund pursuant to section 31-254, subsection D, paragraph 3, Arizona Revised Statutes, may be used for costs to operate transition programs established pursuant to section 31-281, Arizona Revised Statutes.

B. This section is effective retroactively to from and after July 1, 2007.

Sec. 35. Photo enforcement fund; appropriations

A. In fiscal year 2008-2009, the department of public safety shall not spend more than $2,173,000 from the photo enforcement fund established by section 41-1722, Arizona Revised Statutes, as added by this act, for department personnel and related expenditures.

B. The sum of $4,056,600 is appropriated in fiscal year 2008-2009 from the photo enforcement fund to the administrative office of the courts for processing of state photo enforcement citations.

C. The sum of $20,361,300 is appropriated in fiscal year 2008-2009 from the photo enforcement fund to the department of public safety for contract payments to private vendors for the operation of photo enforcement cameras and the processing of citations.

Sec. 36. Appropriation; fire suppression kits

A. Notwithstanding section 41-1723, paragraph 1, Arizona Revised Statutes, as added by this act, the sum of $500,000 is appropriated from the first monies received by the public safety equipment fund in fiscal year 2008-2009 to the Arizona criminal justice commission for distribution to state and local law enforcement and other governmental entities in this state for active or passive fire suppression kits for Ford Crown Victoria vehicles to aid in the prevention of fires resulting from rear end collisions. The commission shall distribute the monies on a first come, first served basis with a maximum of $1,000 per vehicle.

B. A person or entity that sells or offers to sell an active or passive fire suppression kit for use pursuant to this section shall comply with the testing requirements of section 44-1224, Arizona Revised Statutes.

C. The division of occupational safety and health within the industrial commission of Arizona shall monitor the installation of the fire suppression kits.

D. After distribution of the monies in subsection A of this section by the Arizona criminal justice commission, the department of public safety may use the remainder of the $3,000,000 appropriated pursuant to section 41-1723, paragraph 1, Arizona Revised Statutes, as added by this act, in fiscal year 2008-2009, for the purposes provided in that section.

Sec. 37. Retroactivity

Section 28-1593, Arizona Revised Statutes, as amended by this act, and section 41-1722, Arizona Revised Statutes, as added by this act, are effective retroactively to July 1, 2008.

Sec. 38. Effective date

Section 5-395.01, Arizona Revised Statutes, as amended by Laws 2008, chapter 256, section 7 and this act, is effective from and after December 31, 2008.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.