House Engrossed

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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 128

HOUSE BILL 2171

AN ACT

AMENDING SECTIONS 28-1321, 28-1385, 28-3001, 28-3158, 28-3159, 28-3224, 28-3306, 28-3313, 32-2372, 32-2373, 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO DRIVERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

1. If the test results show a blood or breath alcohol concentration of 0.08 or more, if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle or if the results show there is any drug defined in section 13-3401 or its metabolite in the person's body and the person does not possess a valid prescription for the drug, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days.

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

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the

consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph 34 or section 28-1381, 28-1382 or 28-1383.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege will be suspended for twelve months from that date or for two years from that date for a second or subsequent refusal within a period of eighty-four months.

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

H. The order for suspension shall:

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

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

I. On the receipt of a request for a hearing, the department shall set the hearing within ~~thirty~~ SIXTY days. THE DEPARTMENT MAY HOLD THE HEARING IN PERSON, BY TELEPHONE OR BY VIDEO CONFERENCE. IF THE DEPARTMENT HOLDS THE HEARING IN PERSON, THE HEARING SHALL BE HELD in the county in which the person named in the report resides unless the law enforcement agency filing the certified report of refusal pursuant to subsection D of this section requests at the time of its filing that the hearing be held in the county where the refusal occurred.

J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue and retain a restricted license or permit subject to this section.

K. Hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306.

For the purposes of this section, the scope of the hearing shall include only the issues of whether:

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

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

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

2. The person was placed under arrest.

3. The person refused to submit to the test.

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

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

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

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

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

P. After completing not less than ninety consecutive days of the period of suspension required by this section and any alcohol or other drug screening that is ordered by the department pursuant to this chapter, a person whose driving privilege is suspended pursuant to this section may apply to the department for a special ignition interlock restricted driver

license pursuant to section 28-1401. Unless the certified ignition interlock period is extended by the department pursuant to section 28-1461, a person who is issued a special ignition interlock restricted driver license as provided in this subsection shall maintain a functioning certified ignition interlock device in compliance with this chapter during the remaining period of the suspension prescribed by this section. This subsection does not apply to a person whose driving privilege is suspended for a second or subsequent refusal within a period of eighty-four months.

Sec. 2. Section 28-1385, Arizona Revised Statutes, is amended to read:

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

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

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

2. The person submits to a blood or breath alcohol test permitted by section 28-1321 or any other law or a sample of blood is obtained pursuant to section 28-1388 and the results are either not available or the results indicate any of the following:

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

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

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

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

1. Information that adequately identifies the arrested person.

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

3. A statement that the person was arrested for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or

for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

G. Notwithstanding subsections A through F of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between the person's place of employment and residence and during specified periods of time while at employment, to travel between the person's place of residence and the person's secondary or postsecondary school, according to the person's employment or educational schedule, to travel between the person's place of residence and the office of the person's probation officer for scheduled appointments or to travel between the person's place of residence and a screening, education or treatment facility for scheduled appointments if the person:

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

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

3. Has not had the person's privilege to drive suspended pursuant to this section or section 28-1321 within eighty-four months of the date of commission of the acts out of which the current action arose.

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

H. If the officer does not serve an order of suspension pursuant to subsection C of this section and if the department does not receive the report of the results of the blood or breath alcohol test pursuant to subsection B, paragraph 4 of this section, but subsequently receives the results and the results indicate 0.08 or more alcohol concentration in the person's blood or breath, a blood or breath alcohol concentration of 0.04 or more and the person was driving or in actual physical control of a commercial motor vehicle or any drug defined in section 13-3401 or its metabolite in the person's body and the person does not possess a valid prescription for the drug, the department shall notify the person named in the report in writing sent by mail that fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege. The notice shall also state that the department will provide an opportunity for a hearing and administrative review if the person requests a hearing or review in writing and the request is received by the department within fifteen days after the notice is sent.

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

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

1. Whether the officer had reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor OR DRUGS.

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

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

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

(i) 0.08 or more.

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

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

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

5. Whether the test results were accurately evaluated.

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

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to the person for not less than ninety consecutive days. The department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or

nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

M. A person may apply for a summary review of an order issued pursuant to this section instead of a hearing at any time before the effective date of the order. The person shall submit the application in writing to any department driver license examining office together with any written explanation as to why the department should not suspend the driving privilege. The agent of the department receiving the notice shall issue to the person an additional driving permit that expires twenty days from the date the request is received. The department shall review all reports submitted by the officer and any written explanation submitted by the person and shall determine if the order of suspension should be sustained or cancelled. The department shall not hold a hearing, and the review is not subject to title 41, chapter 6. The department shall notify the person of its decision before the temporary driving permit expires.

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

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

Sec. 3. Section 28-3001, Arizona Revised Statutes, is amended to read:

28-3001. Definitions

In this chapter, unless the context otherwise requires:

1. "Cancellation" means the annulment or termination of a driver license because of an error or defect or because the licensee is no longer entitled to the license.

2. "Commercial driver license" means a license that is issued to an individual and that authorizes the individual to operate a class of commercial motor vehicles.

3. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles that is used in commerce to transport passengers or property and that includes any of the following:

(a) A motor vehicle or combination of motor vehicles that has a gross combined weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.

(b) A motor vehicle that has a gross vehicle weight rating of twenty-six thousand one or more pounds.

(c) A bus.

(d) A motor vehicle or combination of motor vehicles that is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation authorization act of 1994 (49 United States Code sections 5101 through 5128) and is required to be placarded under 49 Code of Federal Regulations section 172.504, as adopted by the department pursuant to chapter 14 of this title.

4. "Conviction" has the same meaning prescribed in section 28-101 and also means a final conviction or judgment, including an order of a juvenile court finding that a juvenile has violated a provision of this title or has committed a delinquent act that if committed by an adult constitutes any of the following:

(a) Criminal damage to property pursuant to section 13-1602, subsection A, paragraph 1.

(b) A felony offense in the commission of which a motor vehicle was used, including theft of a motor vehicle pursuant to section 13-1802, unlawful use of means of transportation pursuant to section 13-1803 or theft of means of transportation pursuant to section 13-1814.

(c) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court that has not been vacated.

5. "Disqualification" means a prohibition from obtaining a commercial driver license or driving a commercial motor vehicle.

6. "Employer" means a person, including the United States, a state or a political subdivision of a state, that owns or leases a commercial motor vehicle or that assigns a person to operate a commercial motor vehicle.

7. "Endorsement" means an authorization that is added to an individual's driver license and that is required to permit the individual to operate certain types of vehicles.

8. "Foreign" means outside the United States.

9. "Gross vehicle weight rating" means the weight that is assigned by the vehicle manufacturer to a vehicle and that represents the maximum recommended total weight including the vehicle and the load for the vehicle.

10. "Judgment" means a final judgment and any of the following:

(a) The finding by a court that an individual is responsible for a civil traffic violation.

(b) An individual's admission of responsibility for a civil traffic violation.

(c) The voluntary or involuntary forfeiture of deposit in connection with a civil traffic violation.

(d) A default judgment entered by a court pursuant to section 28-1596.

11. "License class" means, for the purpose of determining the appropriate class of driver license required for the type of motor vehicle or vehicle combination a driver intends to operate or is operating, the class of driver license prescribed in section 28-3101.

12. "~~Nonresident~~ NONDOMICILED commercial driver license" means a commercial driver license issued to an individual domiciled in a foreign country OR TO AN INDIVIDUAL DOMICILED IN ANOTHER STATE IF THAT STATE IS PROHIBITED FROM ISSUING COMMERCIAL DRIVER LICENSES.

13. "Original applicant" means any of the following:

(a) An applicant who has never been licensed or cannot provide evidence of licensing.

(b) An applicant who is applying for a higher class of driver license than the license currently held by the applicant.

(c) An applicant who has a license from a foreign country.

14. "Revocation" means that the driver license and driver's privilege to drive a motor vehicle on the public highways of this state are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted on by the department after one year from the date of revocation.

15. "State of domicile" means the state or jurisdiction where a person has the person's true, fixed and permanent home and principal residence and to which the person has the intention of returning after an absence.

16. "Suspension" means that the driver license and driver's privilege to drive a motor vehicle on the public highways of this state are temporarily withdrawn during the period of the suspension and until application for reinstatement is made.

17. "Vehicle combination" means a motor vehicle and a vehicle in excess of ten thousand pounds gross vehicle weight that it tows, if the combined gross vehicle weight rating is more than twenty-six thousand pounds.

Sec. 4. Section 28-3158, Arizona Revised Statutes, is amended to read:

28-3158. Driver license or instruction permit application

A. A person who applies for an instruction permit or for a driver license shall use a form furnished by the department.

B. An applicant shall pay the fee prescribed by section 28-3002 for a driver license or for an instruction permit issued under section 28-3154, 28-3155, 28-3156 or 28-3225. Payment of the fee required by this section entitles the applicant to not more than three attempts to pass the written examination or road test within twelve months from the date of the application. The department shall refund an application fee pursuant to section 28-373. An applicant who submits documentation of successful completion of a driver education course approved by the department is not required to take the road test.

C. An applicant for an instruction permit or a driver license shall give the department satisfactory proof of the applicant's full legal name, date of birth, sex and residence address and that the applicant's presence in the United States is authorized under federal law.

D. The application for an instruction permit or a driver license shall state the following:

1. A brief description of the applicant and any other identifying information required by the department.

2. Whether the applicant has been licensed, and if so, the type of license issued, when the license was issued and what state or country issued the license.

3. Whether the license was suspended or revoked or whether an application was ever refused, and if so, the date of and reason for the suspension, revocation or refusal.

4. If the applicant was never licensed, the applicant's last previous state or country of residence.

5. The social security number of the applicant ~~unless the application is for a nonresident commercial driver license~~.

E. The department shall:

1. Verify that a social security number provided by an applicant is a valid number assigned to that applicant.

2. Retain the social security number in its records.

F. The social security number provided to the department pursuant to subsection D of this section for an applicant's driver license or instruction permit shall not appear on an applicant's driver license or instruction permit unless the applicant requests that the social security number appear on the applicant's driver license or instruction permit as the driver license or instruction permit number. Except as provided in sections 28-455 and 41-1954, the department shall not release the social security number to any person unless the applicant requests that the social security number appear on the applicant's driver license or instruction permit as the driver license or instruction permit number. The provisions of this subsection shall be included in each application.

G. The department may adopt and implement procedures to deny a driver license or instruction permit to a person who has been deported. The department may adopt and implement procedures to reinstate a person's privilege to apply for a driver license or permit if the person's legal presence status is restored.

H. On request of an applicant, the department shall allow the applicant to provide on the license or permit a post office box address that is regularly used by the applicant.

I. The department may request an applicant who appears in person for a license, a duplicate license or reinstatement of a driving privilege to complete satisfactorily the vision screening prescribed by the department.

J. If a driver license applicant submits satisfactory proof to the department that the applicant is a veteran, on request of the applicant, the department shall allow a distinguishing mark to appear on the license that identifies the person as a veteran.

Sec. 5. Section 28-3159, Arizona Revised Statutes, is amended to read:

28-3159. Restricted licenses

A. With good cause, the department may issue the following restricted driver licenses:

1. A driver license with any of the following:

(a) Restrictions suitable to the licensee's driving ability for the type of motor vehicle or special mechanical control devices required on a motor vehicle that the licensee may operate.

(b) Restrictions suitable to the licensee's ability to drive a motor vehicle in areas, at locations or on highways or during certain times.

(c) Other restrictions as the department determines appropriate to ensure the safe operation of a motor vehicle by the licensee.

2. A class A, B or C driver license that restricts the driver from operating:

(a) A commercial motor vehicle equipped with air brakes, if the applicant either fails the air brake component of the knowledge examination or performs the skills test in a vehicle that is not equipped with air brakes.

(b) A vehicle in interstate commerce, if the applicant is not subject to 49 Code of Federal Regulations part 391.

(c) A motor vehicle for the purposes of interstate commerce, if an applicant for a class A, B or C license is at least eighteen years of age.

3. A CLASS A, B OR C DRIVER LICENSE WITH OTHER RESTRICTIONS THAT THE DEPARTMENT DETERMINES ARE APPROPRIATE TO ENSURE THE SAFE OPERATION OF A COMMERCIAL MOTOR VEHICLE BY THE LICENSEE.

~~3.~~ 4. A class M license that restricts the driver from driving a vehicle other than a motorcycle, motor driven cycle or moped with a maximum piston displacement of one hundred cubic centimeters or less, if the applicant performs the driving examination with a motorcycle, motor driven cycle or moped with a maximum piston displacement of one hundred cubic centimeters or less.

~~4.~~ 5. A special ignition interlock restricted driver license pursuant to chapter 4, article 3.1 of this title.

B. The department may either issue a special restricted license or display the restrictions on the usual driver license form.

Sec. 6. Section 28-3224, Arizona Revised Statutes, is amended to read:

28-3224. Nondomiciled commercial driver license

A. The department may issue a ~~nonresident~~ NONDOMICILED commercial driver license to a resident of another jurisdiction if the United States secretary of transportation determines that the commercial motor vehicle testing and licensing standards in the other jurisdiction do not meet the testing standards established in 49 Code of Federal Regulations part 383.

B. On receipt of a proper application, the department may issue a ~~nonresident~~ NONDOMICILED commercial driver license to an applicant who meets the requirements for a class A, B or C license pursuant to section 28-3223.

C. The department shall mark a license issued pursuant to this section as a ~~nonresident~~ NONDOMICILED commercial driver license or a ~~nonresident~~ NONDOMICILED CDL.

D. A person applying for a ~~nonresident~~ NONDOMICILED commercial driver license shall surrender any ~~nonresident~~ NONDOMICILED commercial driver license issued by another state as a condition of receiving a ~~nonresident~~ NONDOMICILED commercial driver license in this state.

Sec. 7. Section 28-3306, Arizona Revised Statutes, is amended to read:

28-3306. Discretionary license suspension or revocation; traffic survival school; hearing

A. The department may suspend or revoke the license of a driver or require a licensee to attend and successfully complete approved traffic survival school training and educational sessions designed to improve the safety and habits of drivers on a showing by department records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of the license is required on conviction.

2. Has been involved as a driver in an accident resulting in the death or personal injury of another or serious property damage.

3. Has been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with such a frequency that it indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

4. Has been convicted of reckless driving as provided in section 28-693 or is a habitually reckless or negligent driver of a motor vehicle.

5. Is medically, psychologically or physically incapable of operating a motor vehicle and, based on law enforcement, medical or other department information, the continued operation of a motor vehicle by the licensee would endanger the public health, safety and welfare.

6. Has committed or permitted an act involving an unlawful or fraudulent use of the license.

7. Has committed an offense in another jurisdiction that if committed in this state is grounds for suspension or revocation.

8. Has been convicted of a violation of section 28-1381 or 28-1382.

9. Has been convicted of a violation of section 28-1464.

B. On receipt of satisfactory evidence of a violation of a driver license restriction, the department may suspend or revoke the driver license.

C. On suspending or revoking the license of a person or requiring a licensee to attend and successfully complete approved traffic survival school training and educational sessions designed to improve the safety and habits of drivers pursuant to this section, the department shall notify the licensee in writing immediately.

D. On the RECEIPT OF THE person's request FOR A HEARING, the department shall ~~provide an opportunity for a~~ SET THE hearing ~~on the action taken pursuant to this section as early as practicable but not later than thirty~~ WITHIN SIXTY days ~~after receipt of the request~~. THE DEPARTMENT MAY HOLD THE HEARING IN PERSON, BY TELEPHONE OR BY VIDEO CONFERENCE. IF THE DEPARTMENT HOLDS THE HEARING IN PERSON, the department shall hold the hearing in the county where the licensee resides unless the law enforcement agency issuing the citation or affidavit that authorizes the suspension or revocation requests at the time of issuance that the hearing be held in the county where the violation allegedly occurred.

E. If a hearing is held, the department or its duly authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee.

F. At the hearing, the department shall either rescind its order of suspension or its order requiring the licensee to attend and successfully complete approved traffic survival school training and educational sessions or, if good cause exists, the department may uphold or extend the order, revoke the license or make any order that is within its discretionary power under this section and that is in the interest of public safety.

G. If a licensee receives notice requiring the licensee to attend and successfully complete approved traffic survival school training and educational sessions and the department receives information of noncompliance with this order, the department may amend the order to suspend or revoke the license.

H. A person whose driver license is suspended or revoked as provided in subsection A, paragraph 5 of this section may submit a written request to the department for an administrative hearing. The person shall submit the request for a hearing within fifteen days after the department provides the person with notice of suspension or revocation. On receipt of a proper request for a hearing, the department shall provide the person with an opportunity for a hearing in the county where the person resides within thirty days after the department receives the request. The request for a hearing does not stay a summary suspension issued by the department.

Sec. 8. Section 28-3313, Arizona Revised Statutes, is amended to read:

28-3313. Record update

A. Within ten days of the suspension, revocation, cancellation or disqualification of a commercial driver license for a period of sixty days or more, the department shall update its records to reflect the action and shall notify the commercial driver license information system of the action taken.

B. Within ten days of the suspension, revocation, cancellation or disqualification of a commercial driver license issued by another state or of a ~~nonresident~~ NONDOMICILED commercial driver license, the department shall notify the state licensing authority that issued the license of the action taken.

Sec. 9. Section 32-2372, Arizona Revised Statutes, is amended to read:

32-2372. License for instructors; requirements; temporary license; fingerprint clearance card

A. ~~No~~ A person may NOT act as an instructor unless ~~such~~ THE person applies for and obtains from the director a license in the manner and form prescribed by the director.

B. ~~Regulations adopted by~~ IN ADDITION TO THE REQUIREMENTS PRESCRIBED IN THIS SECTION, the director shall ADOPT RULES THAT state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles and practices, previous personnel and employment records and such other matters as the director may prescribe for the protection of the public.

C. The director shall issue a temporary instructor's license to an applicant ~~upon~~ ON receipt of all of the following:

1. An affidavit from a licensed school certifying that the applicant has completed at least one hundred hours of combined classroom and in-car training.

2. A sworn statement that the applicant has no outstanding traffic warrants.

3. Three character references.

4. A written statement from the manager of the sponsoring driving school certifying the applicant's ability to teach driving at the professional level.

D. A temporary instructor's license shall not be valid for more than ninety days from the date of issuance.

E. EACH APPLICANT FOR AN ANNUAL INSTRUCTOR LICENSE SHALL PROVIDE THE DEPARTMENT OR A PRIVATE ENTITY THAT CONTRACTS WITH THE DEPARTMENT PURSUANT TO SECTION 32-2352 WITH A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

Sec. 10. Section 32-2373, Arizona Revised Statutes, is amended to read:

32-2373. Refusal to issue or renew license of school, agent or instructor

A. The director~~, after conducting a hearing for the licensee or applicant,~~ may refuse to issue or renew the license for a school or an agent or instructor in any case where the director ~~finds~~ DETERMINES that the licensee or applicant has not complied with, or has knowingly violated, any provision of this chapter or any rule adopted pursuant to this chapter by the director.

B. AN APPLICANT OR LICENSEE WHO IS AGGRIEVED BY THE DIRECTOR'S DECISION MAY MAKE A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING WITHIN THIRTY DAYS AFTER SERVICE OF NOTICE OF THE REFUSAL. IF THE APPLICANT OR LICENSEE DOES NOT REQUEST A HEARING WITHIN THIRTY DAYS, THE DECISION IS FINAL. IF THE APPLICANT OR LICENSEE REQUESTS A HEARING, THE DIRECTOR SHALL

GIVE WRITTEN NOTICE TO THE APPLICANT OR LICENSEE TO APPEAR AT THE HEARING AND SHOW CAUSE WHY THE REFUSAL TO ISSUE OR RENEW THE LICENSE SHOULD NOT BE UPHELD. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE DIRECTOR SHALL SERVE NOTICE IN WRITING TO THE APPLICANT OR LICENSEE OF THE DIRECTOR'S FINDINGS AND ORDER.

Sec. 11. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 8-804.
(f) Section 8-804.01.
(g) Section 15-183.
(h) Section 15-534.
(i) Section 15-782.02.
(j) Section 15-1330.
(k) Section 15-1881.
(l) Section 17-215.
(m) Section 26-103.
(n) Section 32-2108.01.
(o) Section 32-2123.
(p) Section 32-2371.
(q) SECTION 32-2372.

~~(q)~~ (r) Section 36-207.
~~(r)~~ (s) Section 36-411.
~~(s)~~ (t) Section 36-425.03.
~~(t)~~ (u) Section 36-446.04.
~~(u)~~ (v) Section 36-594.01.
~~(v)~~ (w) Section 36-594.02.
~~(w)~~ (x) Section 36-882.
~~(x)~~ (y) Section 36-883.02.
~~(y)~~ (z) Section 36-897.01.
~~(z)~~ (aa) Section 36-897.03.
~~(aa)~~ (bb) Section 36-3008.
~~(bb)~~ (cc) Section 41-619.53.
~~(cc)~~ (dd) Section 41-1964.
~~(dd)~~ (ee) Section 41-1967.01.
~~(ee)~~ (ff) Section 41-1968.
~~(ff)~~ (gg) Section 41-1969.
~~(gg)~~ (hh) Section 41-2814.
~~(hh)~~ (ii) Section 46-141, subsection A.
~~(ii)~~ (jj) Section 46-321.

Sec. 12. Section 41-1758, Arizona Revised Statutes, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the board of fingerprinting or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

4. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 15-183.
(f) Section 15-503.
(g) Section 15-512.
(h) Section 15-534.
(i) Section 15-782.02.
(j) Section 15-1330.

(k) Section 15-1881.
(l) SECTION 17-215.
~~(l)~~ (m) Section 26-103.
~~(m)~~ (n) Section 32-2108.01.
~~(n)~~ (o) Section 32-2123.
~~(o)~~ (p) Section 32-2371.
(q) SECTION 32-2372.
~~(p)~~ (r) Section 36-207.
~~(q)~~ (s) Section 36-411.
~~(r)~~ (t) Section 36-425.03.
~~(s)~~ (u) Section 36-446.04.
~~(t)~~ (v) Section 36-594.01.
~~(u)~~ (w) Section 36-594.02.
~~(v)~~ (x) Section 36-882.
~~(w)~~ (y) Section 36-883.02.
~~(x)~~ (z) Section 36-897.01.
~~(y)~~ (aa) Section 36-897.03.
~~(z)~~ (bb) Section 36-3008.
~~(aa)~~ (cc) Section 41-619.52.
~~(bb)~~ (dd) Section 41-619.53.
~~(cc)~~ (ee) Section 41-1964.
~~(dd)~~ (ff) Section 41-1967.01.
~~(ee)~~ (gg) Section 41-1968.
~~(ff)~~ (hh) Section 41-1969.
~~(gg)~~ (ii) Section 41-2814.
~~(hh)~~ (jj) Section 46-141, subsection A.
~~(ii)~~ (kk) Section 46-321.

5. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 13. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. <u>Fingerprinting division; duties</u>

The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 32-2108.01, 32-2123, 32-2371, 32-2372, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the person's right to petition the board of fingerprinting for a good cause exception pursuant to sections 41-1758.03 and 41-1758.07.

5. Administer and enforce this article.

APPROVED BY THE GOVERNOR APRIL 29, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.

Passed the House February 25, 2013

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 23, 2013

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

25 day of April, 2013

at 3:30 o'clock P M.

Secretary to the Governor

Approved this 29th day of

April

at 3:46 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 30th day of April, 2013

at 9:35 o'clock a M.

Secretary of State

H.B. 2171