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CHAPTER 57

SENATE BILL 1228

AN ACT

AMENDING SECTIONS 28-1381, 28-1383, 28-1559, 28-3304, 28-3315 AND 28-3319, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. 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 as 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 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. IF THE VIOLATION INVOLVED INTOXICATING LIQUOR, 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 one day 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, IF THE VIOLATION INVOLVED INTOXICATING LIQUOR, 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 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.

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

P. THE COURT MAY ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION THAT DOES NOT INVOLVE INTOXICATING LIQUOR TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO SECTION 28-3319. ON REPORT OF THE CONVICTION AND CERTIFIED IGNITION INTERLOCK DEVICE REQUIREMENT, THE DEPARTMENT 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 SUBSECTION SHALL COMPLY WITH ARTICLE 5 OF THIS CHAPTER.

Sec. 2. 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, 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 one year of the date of the conviction and, IF THE VIOLATION INVOLVED INTOXICATING LIQUOR, 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 twenty-four 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 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. THE COURT MAY ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION THAT DOES NOT INVOLVE INTOXICATING LIQUOR TO EQUIP ANY MOTOR

VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO SECTION 28-3319. ON REPORT OF THE CONVICTION AND CERTIFIED IGNITION INTERLOCK DEVICE REQUIREMENT, THE DEPARTMENT 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 SUBSECTION SHALL COMPLY WITH ARTICLE 5 OF THIS CHAPTER.

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

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

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

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

Sec. 3. Section 28-1559, Arizona Revised Statutes, is amended to read:

28-1559. Traffic case records; abstract of record; reports

A. Each magistrate, judge or hearing officer of a court shall:

1. Keep or cause to be kept a record of each traffic complaint or other legal form of traffic charge deposited with or presented to the court or its traffic violations bureau.

2. Keep a record of each official action by the court or its traffic violations bureau in reference to each traffic complaint or other legal form of traffic charge deposited with or presented to the court or its traffic violations bureau, including but not limited to a record of:

(a) Each conviction, forfeiture of bail or deposit, judgment of acquittal or civil adjudication.

(b) The amount of the civil penalty, fine or forfeiture resulting from each traffic complaint deposited with or presented to the court or traffic violations bureau.

B. Within ten days after the conviction, judgment or forfeiture of bail or deposit of a person on a charge of violating chapter 3 or 4 of this title or this chapter or any other law regulating the operation of vehicles on highways, each magistrate of the court or clerk of the court of record in which the conviction or judgment was had or bail or deposit was forfeited shall prepare and immediately forward to the department an abstract of the record of the court covering the case in which the person either:

1. Was convicted.

2. Was adjudicated to have committed a civil traffic violation.

3. Forfeited bail or deposit.

C. The person required to prepare the abstract shall certify that it is true and correct.

D. A report is not required for a conviction or civil adjudication involving the illegal parking or standing of a vehicle.

E. The abstract shall be made on a form furnished or in a manner prescribed by the department and shall include:

1. The name and address of the party charged.

2. The number, if any, of the driver license of the party charged.

3. The registration number of the vehicle involved.

4. The nature of the offense or civil traffic violation.

5. The date of the hearing, the plea, the judgment or whether bail or deposit was forfeited.

6. The amount of the fine, civil penalty or forfeiture.

F. Each court of record shall also forward a like report to the department on the conviction of a person of homicide or aggravated assault resulting from the operation of a motor vehicle or any other felony in the commission of which a motor vehicle was used. To facilitate the preparation of the report, the sentencing minute entry that is issued by the court shall indicate if the person was convicted of an offense that required the mandatory revocation of a driver license pursuant to section 28-3304, subsection A, paragraph 1, 2, 3, 4~~,~~ OR 5 ~~or 6~~.

G. The department shall keep all abstracts received under this section for inspection as required by law.

H. Each judge, referee, hearing officer, probation officer or other person responsible for the disposition of cases involving traffic offenses or civil violations committed by persons under eighteen years of age shall:

1. Keep a full record of each case in which the person is charged with a violation of chapter 3 or 4 of this title or this chapter or any other law regulating the operation of vehicles on highways.

2. Report the offense or civil violation to the department at its office in Phoenix not more than thirty days after the date on which it was committed, except that a report is not required for parking violations or if it is found that the offense or civil violation was not committed.

I. The report required by subsection H of this section shall:

1. Be made on a form furnished or in a manner prescribed by the department.

2. Contain:

(a) All necessary information as to the identity of the offender.

(b) The citing or arresting agency.

(c) The date and nature of the offense or civil violation.

(d) The date of the hearing, the plea, the judgment or whether bail or deposit was forfeited.

(e) The amount of the fine, civil penalty or forfeiture.

J. Failure, refusal or neglect of a judicial officer to comply with this section is misconduct in office and grounds for removal from office.

Sec. 4. Section 28-3304, Arizona Revised Statutes, is amended to read:

28-3304. Mandatory revocation of license; definition

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

1. A homicide or aggravated assault resulting from the operation of a motor vehicle.

~~2. Driving a motor vehicle while under the influence of a drug as defined in section 13-3401 or in violation of section 28-1381, subsection A, paragraph 3.~~

~~3.~~ 2. A felony in the commission of which a motor vehicle is used.

~~4.~~ 3. Theft of a motor vehicle pursuant to section 13-1802.

~~5.~~ 4. Unlawful use of means of transportation pursuant to section 13-1803.

~~6.~~ 5. Theft of means of transportation pursuant to section 13-1814.

~~7.~~ 6. Drive by shooting pursuant to section 13-1209.

~~8.~~ 7. Failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another.

~~9.~~ 8. Perjury or the making of a false affidavit or statement under oath to the department under this chapter or under any other law relating to the ownership or operation of a motor vehicle.

~~10.~~ 9. Conviction or forfeiture of bail not vacated on a second or subsequent charge of the following offenses that are committed within eighty-four months:

(a) Reckless driving.

(b) Racing on highways.

(c) Any combination of a violation of section 28-1381 or 28-1382 and reckless driving, of a violation of section 28-1381 or 28-1382 and racing on highways, or of reckless driving and racing on highways, if they do not arise out of the same event.

~~11.~~ 10. Conviction or forfeiture of bail not vacated on a second charge of violating section 28-1381 or 28-1382 within eighty-four months.

~~12.~~ 11. Conviction or forfeiture of bail not vacated on a third or subsequent charge of violating section 28-1381 or 28-1382 within eighty-four months.

~~13.~~ 12. Conviction or forfeiture of bail not vacated on a charge of violating section 28-1381 or 28-1382 and the driver has been convicted within a period of eighty-four months of an offense in another jurisdiction that if committed in this state would be a violation of section 28-1381 or 28-1382.

B. In determining the starting date for the eighty-four month period prescribed in subsection A, paragraphs 9, 10, ~~through 13~~ 11 AND 12 of this section, the department shall use the date of the commission of the offense.

C. For the purposes of this section, "conviction" means a final adjudication or judgment, including an order of a juvenile court finding that a juvenile violated any provision of this title or committed a delinquent act that if committed by an adult would constitute a criminal offense.

Sec. 5. Section 28-3315, Arizona Revised Statutes, is amended to read:

28-3315. Period of suspension, revocation or disqualification; unlicensed drivers

A. The department shall not suspend, revoke or disqualify a driver license or privilege to drive a motor vehicle on the public highways for more than one year from the date of a conviction or judgment, if any, against a person for which this chapter makes revocation, suspension or disqualification mandatory or from the date the notice is sent pursuant to section 28-3318 if no conviction was involved, except as permitted under subsection E of this section and sections 28-3312, 28-3319 and 28-3320.

B. A person whose license or privilege to drive a motor vehicle on the public highways has been revoked may apply for a new license as provided by law after the cause of the revocation is removed or after expiration of the revocation period prescribed by law. After the department investigates an applicant's driving record in this state or another state by examining department records or other sufficient evidence to determine that all withdrawal actions are complete, that the applicant has not committed any traffic violations within twelve months preceding application and that all other statutory requirements are satisfied, the department may issue a new license.

C. The department shall not accept an application for reinstatement of a driver license until after the twelve month period prescribed in subsection B of this section has elapsed.

D. If the revocation is related to alcohol or other drugs, the person shall provide the department with a current evaluation from a physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32, chapter 19.1 or a substance abuse counselor as defined in section 28-3005 indicating that, in the opinion of the physician, psychologist or counselor, the condition does not affect or impair the person's ability to safely operate a motor vehicle. For the purposes of reinstating a license or driving privilege pursuant to this article, the department may rely on the opinion of a physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32, chapter 19.1 or a substance abuse counselor as defined in section 28-3005.

E. Notwithstanding subsections A and B of this section:

1. A person whose license or privilege to drive is revoked pursuant to section 28-3304, subsection A, paragraph 1 or ~~12~~ 11 is not entitled to have the person's license or privilege renewed or restored for three years.

2. A person whose license or privilege to drive is revoked pursuant to section 13-1209 is not entitled to have the person's license or privilege renewed or restored for the period of time ordered by the court.

3. If a license, permit or privilege to drive is revoked pursuant to section 28-661, subsection E the license, permit or privilege may not be renewed or restored except as prescribed by section 28-661, subsections E and F.

4. A person whose license, permit or privilege to drive is revoked pursuant to section 28-661, subsection G is not entitled to have the person's license, permit or privilege renewed or restored for three years.

F. If an unlicensed driver commits an offense for which a driver license could be suspended, revoked or disqualified, the department shall not accept the unlicensed driver's application for a driver license for a period equal to the period of time that applies to a driver with a license. If the offense is one for which a driver license could be revoked, the department shall not accept the unlicensed driver's application for a driver license unless it investigates the character, habits and driving ability of the person and is satisfied that it is safe to grant the privilege of driving a motor vehicle on the public highways.

G. The expiration of a person's license during the period of time it is under suspension, revocation or disqualification does not invalidate or terminate the suspension, revocation or disqualification.

H. A person whose license or privilege to drive a motor vehicle on the public highways has been suspended pursuant to section 28-3306, subsection A, paragraph 5 or section 28-3314 may apply for a new license as provided by law after the cause for suspension is removed or after expiration of the suspension period prescribed by law if both of the following conditions are met:

1. The department is satisfied, after reviewing the medical condition and driving ability of the person, that it is safe to grant the person the privilege of driving a motor vehicle on the public highways.

2. If the person has a medical condition related to alcohol or other drugs, the person provides the department with a current evaluation form from a physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32, chapter 19.1 or a substance abuse counselor as defined in section 28-3005 indicating that, in the opinion of the physician, psychologist or counselor, the condition does not affect or impair the person's ability to operate a motor vehicle in a safe manner.

Sec. 6. Section 28-3319, Arizona Revised Statutes, is amended to read:

28-3319. <u>Action after license suspension, revocation or denial for driving under the influence or refusal of test; ignition interlock device requirement; definition</u>

A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320 or 28-3322, the license of a driver or the driving privilege of a nonresident is suspended or revoked, the department shall not terminate the suspension or revocation or issue a special ignition interlock restricted driver license, if applicable, pursuant to chapter 4, article 3.1 of this title until the

person provides proof of financial responsibility pursuant to chapter 9, article 3 of this title.

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

C. If a person whose license or driving privilege is suspended or revoked pursuant to section 28-1321, 28-1381, 28-1382, 28-1383 or 28-1385 is ordered, pursuant to section 28-1381, 28-1382, 28-1383 or 28-1385, to attend alcohol or other drug screening, education or treatment, the department shall not either:

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

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

D. ~~Except as provided in subsection G of this section,~~ On receipt of a report of conviction from a court FOR A VIOLATION THAT INVOLVED INTOXICATING LIQUOR OR THAT SPECIFICALLY REQUIRES THE INSTALLATION OF A CERTIFIED IGNITION INTERLOCK DEVICE, the department shall require any motor vehicle the convicted person operates to be equipped with a functioning certified ignition interlock device and the convicted person to meet the requirements prescribed in section 28-1461 as follows:

1. For twelve months if:

(a) Except as provided in subsection ~~H~~ G of this section, the person is convicted of a violation of section 28-1381, section 28-1382, subsection A, paragraph 1 or section 28-1383, subsection A, paragraph 3, subdivision (a).

(b) The department determines that within a period of eighty-four months the person is convicted of a second or subsequent violation of section 28-1381 or section 28-1382, subsection A, paragraph 1 with a prior conviction of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of section 28-1381, 28-1382 or 28-1383.

2. For eighteen months if the person is convicted of a violation of section 28-1382, subsection A, paragraph 2.

3. For twenty-four months if:

(a) The person is convicted of a violation of section 28-1382, subsection A, paragraph 2 and the department determines that within a period of eighty-four months the person has a prior conviction of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of section 28-1381, 28-1382 or 28-1383.

(b) The person is convicted of a violation of section 28-1383, subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b).

E. The requirement prescribed in subsection D of this section begins 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.

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

~~G. The department shall remove the requirement that the person maintain a functioning certified ignition interlock device if the person is only convicted of a violation of section 28-1381, subsection A, paragraph 3 and completes alcohol or other drug screening required pursuant to section 28-1387 and the court determines that no alcohol education or treatment is required.~~

~~H.~~ G. The department shall defer the remainder of the time period prescribed in subsection D, paragraph 1, subdivision (a) of this section commencing with the later of six months from the date the interlock was installed or the completion of the requirements of this subsection if all of the following apply:

1. The person is sentenced pursuant to section 28-1381, subsection I.

2. The person successfully completes an alcohol education program consisting of at least sixteen hours pursuant to section 28-1381.

3. The person has maintained a functioning ignition interlock device on all motor vehicles the person operates and has met the requirements of section 28-1461.

4. The person has not attempted to operate a vehicle with an alcohol concentration of 0.08 or more two or more times during the period of license restriction or limitation.

5. At the time of the offense, the person was not involved in a motor vehicle accident that resulted in physical injury or property damage.

6. All necessary compliance information has been provided to the department by the ignition interlock device provider, the alcohol screening program and the alcohol education program.

~~I.~~ H. The deferment pursuant to subsection ~~H~~ G of this section is permanent, unless the person is arrested for a violation of section 28-1381, 28-1382 or 28-1383 that occurs during the period of the deferment. If the person is arrested as described in this subsection, the department shall

1 revoke the deferment and require the person to complete the remainder of the
2 time period prescribed in subsection D, paragraph 1, subdivision (a) of this
3 section.
4 ~~J.~~ I. For the purposes of this section, "certified ignition interlock
5 device" has the same meaning prescribed in section 28-1301.
6 Sec. 7. Effective date
7 This act is effective from and after December 31, 2016

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.

Passed the House March 10, 2016,

by the following vote: 26 Ayes,

32 Nays, 2 Not Voting

FAILED

Speaker of the House

Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate February 18, 2016,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Craves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1228

Passed the House March 17, 2016

by the following vote: 45 Ayes,

13 Nays, 2 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

21st day of March, 2016

at 1:48 o'clock P M.

Secretary to the Governor

Approved this 24th day of

March

at 10:45 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of March, 2016

at 2:02 o'clock P M.

Secretary of State

ON RECONSIDERATION
S.B. 1228