

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 322
HOUSE BILL 2650

AN ACT

AMENDING SECTIONS 12-114, 28-3392 AND 28-3394, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 8, ARTICLE 7, ARIZONA REVISED STATUTES, BY
ADDING SECTION 28-3394.01; AMENDING SECTION 28-3396, ARIZONA REVISED
STATUTES; RELATING TO DEFENSIVE DRIVING SCHOOL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-114, Arizona Revised Statutes, is amended to
3 read:

4 12-114. Surcharge on court ordered diversion programs for
5 traffic offenses; deposit

6 A. If a court authorizes individuals charged with civil or criminal
7 traffic offenses to attend a court authorized diversion program, including
8 a defensive driving school program, it shall require the assessment of a
9 five dollar surcharge on the fees charged by such court authorized
10 diversion programs. **THE SURCHARGE APPLIES TO EVERY INDIVIDUAL WHO ATTENDS**
11 **A COURT AUTHORIZED DIVERSION PROGRAM, INCLUDING AN INDIVIDUAL WHO HOLDS A**
12 **COMMERCIAL DRIVER LICENSE.**

13 B. A court or a court authorized diversion program shall collect
14 the five dollar surcharge and remit the surcharge to the supreme court
15 which shall deposit, pursuant to sections 35-146 and 35-147, the surcharge
16 in the judicial collection enhancement fund.

17 Sec. 2. Section 28-3392, Arizona Revised Statutes, is amended to
18 read:

19 28-3392. Defensive driving school; eligibility

20 A. A court:

21 1. Shall allow an individual who is issued a citation for a civil
22 traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6
23 through 15 of this title or a local civil traffic ordinance relating to
24 the same subject matter to attend a defensive driving school for the
25 purposes provided in this article.

26 2. Except as prescribed in subsection C of this section: ~~—~~

27 (a) May allow an individual who is issued a citation for a
28 violation of section 28-701.02 to attend a defensive driving school.

29 (b) **SHALL ALLOW AN INDIVIDUAL WHO HOLDS A COMMERCIAL DRIVER LICENSE**
30 **AND WHO IS ISSUED A CITATION FOR A CIVIL TRAFFIC MOVING VIOLATION PURSUANT**
31 **TO CHAPTER 3, ARTICLE 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 OR 15 OF**
32 **THIS TITLE OR A LOCAL CIVIL TRAFFIC ORDINANCE RELATING TO THE SAME SUBJECT**
33 **MATTER TO ATTEND A DEFENSIVE DRIVING SCHOOL FOR THE PURPOSES PROVIDED IN**
34 **THIS ARTICLE ONLY IF THE INDIVIDUAL WAS DRIVING A VEHICLE REQUIRING A**
35 **CLASS D LICENSE OR A CLASS M LICENSE AND THE VEHICLE WAS NOT BEING USED**
36 **FOR COMMERCIAL PURPOSES.**

37 B. A person who attends a defensive driving school pursuant to this
38 article is not eligible to attend a defensive driving school again within
39 twelve months from the day of the last violation for which the person was
40 authorized by this article to attend a defensive driving school.

41 C. Notwithstanding subsection A of this section:

42 1. An individual who commits a civil or criminal traffic violation
43 resulting in death or serious physical injury is not eligible to attend a
44 defensive driving school, except that the court may order the individual
45 to attend a defensive driving school in addition to another sentence

1 imposed by the court on an adjudication or admission of the traffic
2 violation.

3 2. If a ~~commercial driver license holder or a~~ driver of a
4 commercial motor vehicle that requires a commercial driver license is
5 found guilty or responsible for a moving violation, the court may require
6 the violator to attend defensive driving school as an element of sentence,
7 but may not dismiss the conviction or finding of responsibility and shall
8 report the conviction or finding of responsibility to the department as
9 prescribed in section 28-1559. A ~~commercial driver license holder or a~~
10 driver of a commercial motor vehicle that requires a commercial driver
11 license is not eligible for the defensive driving diversion program.

12 Sec. 3. Section 28-3394, Arizona Revised Statutes, is amended to
13 read:

14 28-3394. Successful course completion

15 A. EXCEPT AS PROVIDED IN SECTION 28-3394.01, if an eligible
16 individual successfully completes the course at a defensive driving
17 school:

18 1. The court shall dismiss the civil or criminal traffic citation
19 for which the individual attended the school.

20 2. The department shall not include a record of the civil or
21 criminal traffic citation for which the individual attended the school on
22 the individual's driving record.

23 B. The dismissal of a civil or criminal traffic citation pursuant
24 to this section does not preclude the introduction of evidence pertaining
25 to the issuance of the citation in a civil or criminal proceeding.

26 Sec. 4. Title 28, chapter 8, article 7, Arizona Revised Statutes,
27 is amended by adding section 28-3394.01, to read:

28 28-3394.01. Commercial driver license holders

29 A. THE COURT SHALL FORWARD TO THE DEPARTMENT AN ABSTRACT OF A
30 RECORD OF JUDGMENT AGAINST A PERSON WHO HOLDS A COMMERCIAL DRIVER LICENSE
31 AND WHO IS ELIGIBLE TO ATTEND DEFENSIVE DRIVING SCHOOL PURSUANT TO SECTION
32 28-3392. THE DEPARTMENT SHALL INCLUDE A RECORD OF THE CIVIL TRAFFIC
33 VIOLATION ON THE PERSON'S DRIVING RECORD. THE DEPARTMENT OR AN AGENCY OF
34 THIS STATE MAY NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF DETERMINING
35 WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED.

36 B. IF THE PERSON DESCRIBED IN SUBSECTION A OF THIS SECTION
37 SUCCESSFULLY COMPLETES THE COURSE AT A DEFENSIVE DRIVING SCHOOL:

38 1. THE COURT MAY NOT IMPOSE A CIVIL PENALTY FOR THE TRAFFIC
39 CITATION FOR WHICH THE INDIVIDUAL ATTENDED THE SCHOOL.

40 2. FOR PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE, AN
41 INSURER SHALL CONSIDER THE TRAFFIC CITATION EQUIVALENT TO A DISMISSED
42 TRAFFIC CITATION PURSUANT TO SECTION 28-3394 EXCEPT THAT AN INSURER OF A
43 COMMERCIAL MOTOR VEHICLE MAY CONSIDER THE CITATION FOR UNDERWRITING AND
44 RATING PURPOSES FOR ANY POLICY COVERING THE VEHICLE.

1 Sec. 5. Section 28-3396, Arizona Revised Statutes, is amended to
2 read:

3 28-3396. Court diversion fee

4 A. The presiding judge of each court shall:

5 1. Set the amount of the court diversion fee that an individual,
6 **INCLUDING AN INDIVIDUAL WHO HOLDS A COMMERCIAL DRIVER LICENSE**, who attends
7 a defensive driving school may be assessed.

8 2. Charge an individual a forty-five dollar surcharge if the
9 individual attends a defensive driving school.

10 3. Immediately inform the supreme court in writing of the amount of
11 the court diversion fee that is established for the court and the total
12 cost to attend a defensive driving school.

13 4. Immediately inform the supreme court in writing of any changes
14 in the total cost to attend a defensive driving school.

15 B. Payment of the court diversion fee and surcharge is in lieu of
16 payment of a civil penalty or criminal fine and any surcharge that are
17 imposed for a traffic violation.

18 C. The driving school shall collect the court diversion fee and
19 surcharge before or at the time an individual attends the school. On
20 receipt of the diversion fee, the defensive driving school shall transmit
21 the fee promptly to the appropriate court pursuant to procedures
22 prescribed by the supreme court. On receipt of the surcharge, the
23 defensive driving school shall transmit the surcharge promptly to the
24 state treasurer for deposit, pursuant to sections 35-146 and 35-147, as
25 follows:

26 1. The first ten million four hundred thousand dollars in revenue
27 annually in the department of public safety forensics fund established by
28 section 41-1730.

29 2. All remaining money in the state general fund.

30 Sec. 6. Effective date

31 This act is effective from and after August 31, 2019.

APPROVED BY THE GOVERNOR MAY 16, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2018.