

Senate Engrossed

DUI; license suspensions; restrictions

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# SENATE BILL 1334

AN ACT

AMENDING SECTIONS 28-673, 28-1321, 28-1385, 28-1387, 28-1401, 28-1402 AND 28-3319, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-673, Arizona Revised Statutes, is amended to  
3 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           Sec. 2. Section 28-1321, Arizona Revised Statutes, is amended to  
2 read:

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

7           A. A person who operates a motor vehicle in this state gives  
8 consent, subject to section 4-244, paragraph 34 or section 28-1381,  
9 28-1382 or 28-1383, to a test or tests of the person's blood, breath,  
10 urine or other bodily substance for the purpose of determining alcohol  
11 concentration or drug content if the person is arrested for any offense  
12 arising out of acts alleged to have been committed in violation of this  
13 chapter or section 4-244, paragraph 34 while the person was driving or in  
14 actual physical control of a motor vehicle while under the influence of  
15 intoxicating liquor or drugs. The test or tests chosen by the law  
16 enforcement agency shall be administered at the direction of a law  
17 enforcement officer having reasonable grounds to believe that the person  
18 was driving or in actual physical control of a motor vehicle in this state  
19 either:

- 20           1. While under the influence of intoxicating liquor or drugs.  
21           2. If the person is under twenty-one years of age, with spirituous  
22 liquor in the person's body.

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

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

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

1 C. A person who is dead, unconscious or otherwise in a condition  
2 rendering the person incapable of refusal is deemed not to have withdrawn  
3 the consent provided by subsection A of this section and the test or tests  
4 may be administered, subject to section 4-244, paragraph 34 or section  
5 28-1381, 28-1382 or 28-1383.

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

9 1. The test shall not be given, except as provided in section  
10 28-1388, subsection E or pursuant to a search warrant.

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

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

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

17 (c) Require the immediate surrender of any license or permit to  
18 drive that is issued by this state and that is in the possession or  
19 control of the person. The law enforcement agency may do either of the  
20 following to a driver license or permit taken into possession under this  
21 subdivision:

22 (i) In compliance with sections 41-151.15 and 41-151.19, destroy  
23 the driver license or permit.

24 (ii) Forward the driver license or permit to the department within  
25 five days after the issuance of the notice of suspension.

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

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

30 (f) Forward the certified report of refusal, a copy of the  
31 completed notice of suspension and a copy of any completed temporary  
32 permit to the department within five days after the issuance of the notice  
33 of suspension.

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

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

39 (a) While under the influence of intoxicating liquor or drugs AS  
40 DESCRIBED IN SECTION 28-1381.

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

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

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

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

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

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

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

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

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

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

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

29 H. The order for suspension shall:

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

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

38 I. On the receipt of a request for a hearing, the department shall  
39 set the hearing within sixty days. The department may hold the hearing in  
40 person, by telephone or by videoconference. If the department holds the  
41 hearing in person, the hearing shall be held in the county in which the  
42 person named in the report resides unless the law enforcement agency  
43 filing the certified report of refusal pursuant to subsection D of this  
44 section requests at the time of its filing that the hearing be held in the  
45 county where the refusal occurred.

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

11 K. Hearings requested under this section shall be conducted in the  
12 same manner and under the same conditions as provided in section 28-3306.  
13 For the purposes of this section, the scope of the hearing shall include  
14 only the issues of whether:

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

18 (a) While under the influence of intoxicating liquor or drugs AS  
19 DESCRIBED IN SECTION 28-1381.

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

22 2. The person was placed under arrest.

23 3. The person refused to submit to the test.

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

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

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

1 ~~expedited basis.~~ SEEK JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7,  
2 ARTICLE 6, EXCEPT THAT SECTION 12-910, SUBSECTIONS A, B, E AND F DO NOT  
3 APPLY.

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

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

13 P. After completing ~~not less than ninety consecutive days of the~~  
14 ~~period of suspension required by this section and~~ any alcohol or other  
15 drug screening that is ordered by the department pursuant to this chapter,  
16 a person whose driving privilege is suspended pursuant to this section may  
17 apply to the department for a special ignition interlock restricted driver  
18 license pursuant to section 28-1401. Unless the certified ignition  
19 interlock period is extended by the department pursuant to section  
20 28-1461, a person who is issued a special ignition interlock restricted  
21 driver license as provided in this subsection shall maintain a functioning  
22 certified ignition interlock device in compliance with this chapter during  
23 the remaining period of the suspension prescribed by this section. This  
24 subsection does not apply to a person whose driving privilege is suspended  
25 for a second or subsequent refusal within a period of eighty-four months.

26 Sec. 3. Section 28-1385, Arizona Revised Statutes, is amended to  
27 read:

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

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

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

40 2. The person submits to a test of the person's blood, breath,  
41 urine or other bodily substance that is ~~permitted~~ ALLOWED by section  
42 28-1321 or any other law or a sample of blood is obtained pursuant to  
43 section 28-1388 and the results are either not available or the results  
44 indicate any of the following:



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

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

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

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

13 1. Information that adequately identifies the arrested person.

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

19 3. A statement that the person was arrested for a violation of  
20 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
21 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or  
22 13-1204 involving a motor vehicle.

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

25 C. If a breath test is administered, a law enforcement agency shall  
26 forward the certified report that is required by subsection A of this  
27 section to the department within thirty days after the arrest occurs. If  
28 a sample of blood, urine or other bodily substance is obtained, the law  
29 enforcement agency shall forward the certified report that is required by  
30 subsection A of this section to the department within thirty days after  
31 the date the report of the analysis is provided to the law enforcement  
32 agency. If a report is not forwarded to the department within the time  
33 limit prescribed by this subsection, the report is inadmissible in a  
34 hearing held pursuant to this section unless the violation listed in  
35 subsection A of this section resulted in ~~a~~ death or serious physical  
36 injury. For the purposes of this subsection, "serious physical injury"  
37 has the same meaning prescribed in section 13-105.

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

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

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

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

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

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

11           6. Shall inform the person that the person's driving privilege,  
12 license, permit, right to apply for a license or permit or nonresident  
13 operating privilege may be issued or reinstated following the period of  
14 suspension OR ISSUANCE OF A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER  
15 LICENSE only if the person completes alcohol or other drug screening.

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

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

23           F. If the license or permit is not surrendered pursuant to  
24 subsection D of this section, the officer shall state the reason for the  
25 nonsurrender. If a valid license or permit is surrendered, the officer  
26 shall issue a temporary driving permit that is valid for ~~fifteen~~ THIRTY  
27 days. The officer shall forward a copy of the completed order of  
28 suspension and a copy of any completed temporary permit to the department  
29 within five days after the issuance of the order of suspension along with  
30 the report. The law enforcement agency may do either of the following  
31 with a valid license or permit that is surrendered pursuant to this  
32 section:

33           1. In compliance with sections 41-151.15 and 41-151.19, destroy the  
34 license or permit.

35           2. Forward the license or permit to the department within five days  
36 after the issuance of the notice of suspension.

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

1 H. Notwithstanding subsections A, B, C, D, E, F and G of this  
2 section **AND EXCEPT AS PROVIDED IN SUBSECTION I OF THIS SECTION**, the  
3 department shall suspend the driving privileges of the person described in  
4 subsection A of this section for at least thirty consecutive days and  
5 shall restrict the person's driving privileges as prescribed in section  
6 28-144 for at least sixty consecutive additional days if the person:

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

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

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

18 ~~4.~~ 3. Provides satisfactory evidence to the department of the  
19 person's completion of alcohol or other drug screening that is ordered by  
20 the department. If the person does not complete alcohol or other drug  
21 screening, the department may impose a ninety day suspension pursuant to  
22 this section.

23 I. **IN LIEU OF A DRIVING PRIVILEGE SUSPENSION PURSUANT TO SUBSECTION**  
24 **H OF THIS SECTION, ON A PERSON'S REQUEST, THE DEPARTMENT SHALL ISSUE A**  
25 **SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE TO THE PERSON IF THE**  
26 **REQUIREMENTS SET FORTH IN SUBSECTION H, PARAGRAPHS 1, 2 AND 3 ARE MET.**

27 ~~I.~~ J. If the officer does not serve an order of suspension  
28 pursuant to subsection D of this section and if the department does not  
29 receive the report of the results of the blood or breath alcohol test  
30 pursuant to subsection B, paragraph 4 of this section, but subsequently  
31 receives the results and the results indicate 0.08 or more alcohol  
32 concentration in the person's blood or breath, a blood or breath alcohol  
33 concentration of 0.04 or more and the person was driving or in actual  
34 physical control of a commercial motor vehicle or any drug defined in  
35 section 13-3401 or its metabolite in the person's body and the person does  
36 not possess a valid prescription for the drug, the department shall notify  
37 the person named in the report in writing sent by mail that ~~fifteen~~ **THIRTY**  
38 days after the date of issuance of the notice the department will suspend  
39 the person's license or permit, driving privilege or nonresident driving  
40 privilege. The notice shall also state that the department will provide  
41 an opportunity for a hearing and summary review if the person requests a  
42 hearing or review in writing and the request is received by the department  
43 within ~~fifteen~~ **THIRTY** days after the notice is sent.

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

13           ~~K.~~ L. For the purposes of this section, the scope of the hearing  
14 shall include only the following issues:

15           1. Whether the officer had reasonable grounds to believe the person  
16 was driving or was in actual physical control of a motor vehicle while  
17 under the influence of intoxicating liquor or drugs AS DESCRIBED IN  
18 SECTION 28-1381.

19           2. Whether the person was placed under arrest for a violation of  
20 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
21 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or  
22 13-1204 involving a motor vehicle.

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

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

27           (i) 0.08 or more.

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

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

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

34           5. Whether the test results were accurately evaluated.

35           ~~L.~~ M. The results of the blood or breath alcohol test shall be  
36 admitted on establishing the requirements in section 28-1323 or 28-1326.

37           ~~M.~~ N. If the department determines at the hearing to suspend the  
38 affected person's privilege to operate a motor vehicle, the suspension  
39 provided in this section is effective ~~fifteen~~ THIRTY days after giving  
40 written notice of the suspension, except that the department may issue or  
41 extend a temporary license that expires on the effective date of the  
42 suspension. If the person is a resident without a license or permit or has  
43 an expired license or permit to operate a motor vehicle in this state, the  
44 department shall deny the issuance of a license or permit to the person  
45 for not less than ninety consecutive days. The department may reinstate

1 the person's driving privilege, license, permit, right to apply for a  
2 license or permit or nonresident operating privilege following the period  
3 of suspension only if the violator completes alcohol or other drug  
4 screening.

5 ~~N.~~ O. A person may request a summary review of an order issued  
6 pursuant to this section instead of a hearing at any time before the  
7 effective date of the order. A timely request for summary review stays  
8 the suspension until a decision is issued. The person shall submit the  
9 request in writing to the department together with any written explanation  
10 as to why the department should not suspend the driving privilege. The  
11 department shall review all reports submitted by the officer and any  
12 written explanation submitted by the person and shall determine if the  
13 order of suspension should be sustained or voided. The department shall  
14 not hold a hearing, and the review is not subject to title 41, chapter 6.  
15 The department shall notify the person of its decision.

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

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

26 Sec. 4. Section 28-1387, Arizona Revised Statutes, is amended to  
27 read:

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

31 A. The court shall allow the allegation of a prior conviction or  
32 any other pending charge of a violation of section 28-1381, 28-1382 or  
33 28-1383 or an act in another jurisdiction that if committed in this state  
34 would be a violation of section 28-1381, 28-1382 or 28-1383 filed twenty  
35 or more days before the date the case is actually tried and may allow the  
36 allegation of a prior conviction or any other pending charge of a  
37 violation of section 28-1381, 28-1382 or 28-1383 or an act in another  
38 jurisdiction that if committed in this state would be a violation of  
39 section 28-1381, 28-1382 or 28-1383 filed at any time before the date the  
40 case is actually tried if this state makes available to the defendant when  
41 the allegation is filed a copy of any information obtained concerning the  
42 prior conviction or other pending charge. Any conviction may be used to  
43 enhance another conviction irrespective of the dates on which the offenses  
44 occurred within the eighty-four month provision. For the purposes of this

1 article, an order of a juvenile court adjudicating a person delinquent is  
2 equivalent to a conviction.

3 B. In addition to any other penalties prescribed by law, the judge  
4 shall order a person who is convicted of a violation of section 28-1381,  
5 28-1382 or 28-1383 to complete alcohol or other drug screening that is  
6 provided by a facility approved by the department of health services, the  
7 United States department of veterans affairs or a probation department.  
8 If a judge determines that the person requires further alcohol or other  
9 drug education or treatment, the person may be required pursuant to court  
10 order to obtain alcohol or other drug education or treatment under the  
11 court's supervision from an approved facility. The judge may review an  
12 education or treatment determination at the request of the state, the  
13 defendant or the probation officer or on the judge's initiative. The  
14 person shall pay the costs of the screening, education or treatment  
15 unless, after considering the person's ability to pay all or part of the  
16 costs, the court waives all or part of the costs. If a person is referred  
17 to a screening, education or treatment facility, the facility shall report  
18 to the court whether the person has successfully completed the screening,  
19 education or treatment program. The court may accept evidence of a  
20 person's completion of alcohol or other drug screening pursuant to section  
21 28-1445 as sufficient to meet the requirements of this section or section  
22 28-1381, 28-1382 or 28-1383 or may order the person to complete additional  
23 alcohol or other drug screening, education or treatment programs. If a  
24 person has previously been ordered to complete an alcohol or other drug  
25 screening, education or treatment program pursuant to this section, the  
26 judge shall order the person to complete an alcohol or other drug  
27 screening, education or treatment program unless the court determines that  
28 alternative sanctions are more appropriate.

29 C. After a person who is sentenced pursuant to section 28-1381,  
30 subsection I has served twenty-four consecutive hours in jail or after a  
31 person who is sentenced pursuant to section 28-1381, subsection K or  
32 section 28-1382, subsection D or E has served forty-eight consecutive  
33 hours in jail and after the court receives confirmation that the person is  
34 employed or is a student, the court shall provide in the sentence that the  
35 defendant, if the defendant is employed or is a student and can continue  
36 the defendant's employment or schooling, may continue the employment or  
37 schooling for not more than twelve hours a day nor more than six days a  
38 week, unless the court finds good cause to not allow the release and  
39 places those findings on the record. The person shall spend the remaining  
40 day, days or parts of days in jail until the sentence is served and shall  
41 be allowed out of jail only long enough to complete the actual hours of  
42 employment or schooling.

1 D. Unless the license of a person convicted under section 28-1381  
2 or 28-1382 has been or is suspended pursuant to section 28-1321 or  
3 28-1385, the department on receipt of the abstract of conviction of a  
4 violation of section 28-1381 or 28-1382 shall suspend the license of the  
5 affected person for not less than ninety consecutive days.

6 E. When the department receives notification that the person meets  
7 the criteria provided in section 28-1385, subsection H, the department  
8 shall suspend the driving privileges of the person for not less than  
9 thirty consecutive days and shall restrict the person's driving privileges  
10 as described in section 28-144 for not less than sixty consecutive  
11 additional days.

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

16 G. Any political subdivision processing or using the services of a  
17 person ordered to perform community restitution pursuant to section  
18 28-1381 or 28-1382 does not incur any civil liability to the person  
19 ordered to perform community restitution as a result of these activities  
20 unless the political subdivision or its agent or employee acts with gross  
21 negligence.

22 H. The court may order alternative sanctions to community  
23 restitution that is ordered pursuant to section 28-1381, subsection K or  
24 section 28-1382, subsection E if the court determines that education,  
25 treatment or other alternative sanctions are more appropriate.

26 I. Except for another violation of this article, the state shall  
27 not dismiss a charge of violating any provision of this article unless  
28 there is an insufficient legal or factual basis to pursue that charge.

29 Sec. 5. Section 28-1401, Arizona Revised Statutes, is amended to  
30 read:

31 28-1401. Special ignition interlock restricted driver  
32 licenses; application fee

33 A. A person whose class D or class G license has been suspended  
34 pursuant to section 28-1385 or suspended or revoked for a first refusal  
35 pursuant to section 28-1321, a second violation of section 28-1381 or  
36 28-1382 or a first violation of section 28-1383, subsection A, paragraph 3  
37 may apply to the department for a special ignition interlock restricted  
38 driver license that allows ~~a~~ THE person to operate a motor vehicle during  
39 the period of suspension or revocation subject to the restrictions  
40 ~~described in section 28-144 and~~ OF the certified ignition interlock device  
41 requirements prescribed in article 5 of this chapter if the person's  
42 privilege to operate a motor vehicle has been RESTRICTED, suspended or  
43 revoked ~~due to an alcohol related~~ AND THE offense INVOLVED ONLY ALCOHOL  
44 OR, IF THE PERSON'S ALCOHOL CONCENTRATION IS 0.08 OR MORE, A COMBINATION  
45 OF DRUGS AND ALCOHOL pursuant to any of the following:

1           1. Section 28-1321, if the person meets the criteria of section  
2 28-1321, subsection P.

3           2. Section 28-1381, if the person meets the criteria of section  
4 28-1381, subsection O and the person presents evidence that is  
5 satisfactory to the director and that shows that the person has completed  
6 the requirements prescribed in section 28-1387, subsection B.

7           3. Section 28-1382, if the person meets the criteria of section  
8 28-1382, subsection H and the person presents evidence that is  
9 satisfactory to the director and that shows that the person has completed  
10 the requirements prescribed in section 28-1387, subsection B.

11           4. Section 28-1383, if the person meets the criteria of section  
12 28-1383, subsection L and the person presents evidence that is  
13 satisfactory to the director and that shows that the person has completed  
14 the requirements prescribed in section 28-1387, subsection B.

15           5. Section 28-1385, if the person meets the criteria of section  
16 28-1385, subsection H.

17           B. An applicant for a special ignition interlock restricted driver  
18 license shall pay an application fee in an amount to be determined by the  
19 director.

20           C. The department shall issue a special ignition interlock  
21 restricted driver license during the period of a court-ordered restriction  
22 pursuant to sections 28-3320 and 28-3322 subject to the ~~restrictions~~  
23 ~~described in section 28-144 and the~~ certified ignition interlock  
24 requirements prescribed in article 5 of this chapter.

25           D. If the department issues a special ignition interlock restricted  
26 driver license, the department shall not delete a suspension or revocation  
27 from its records.

28           ~~E. The granting of a special ignition interlock restricted driver~~  
29 ~~license does not reduce or eliminate the required use of an ignition~~  
30 ~~interlock device pursuant to section 28-3319.~~

31           Sec. 6. Section 28-1402, Arizona Revised Statutes, is amended to  
32 read:

33           28-1402. Issuance of special ignition interlock restricted  
34 driver license

35           A. On application pursuant to section 28-1401, subsection A the  
36 department may, and pursuant to section 28-1401, subsection C the  
37 department shall, issue a special ignition interlock restricted driver  
38 license that only allows a person whose class D or class G license has  
39 been suspended pursuant to section 28-1385 or suspended or revoked for a  
40 first refusal pursuant to section 28-1321, a second violation of section  
41 28-1381 or 28-1382 or a first violation of section 28-1383, subsection A,  
42 paragraph 3 to operate a motor vehicle that is equipped with a functioning  
43 certified ignition interlock device ~~and only under the restrictions~~  
44 ~~described in section 28-144.~~



1 B. The department may only issue a special ignition interlock  
2 restricted driver license to an applicant who is otherwise qualified by  
3 law.

4 C. Except as provided in section 28-1463, if the department  
5 suspends, revokes, cancels or otherwise rescinds a person's special  
6 ignition interlock restricted license or privilege for any reason, the  
7 department shall not issue a new license or reinstate the special ignition  
8 interlock restricted driver license during the prescribed period of  
9 suspension or revocation or while the person is otherwise ineligible to  
10 receive a license.

11 Sec. 7. Section 28-3319, Arizona Revised Statutes, is amended to  
12 read:

13 28-3319. Action after license suspension, revocation or  
14 denial for driving under the influence or refusal  
15 of test; ignition interlock device requirement;  
16 definition

17 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,  
18 28-3320 or 28-3322, the license of a driver or the driving privilege of a  
19 nonresident is suspended or revoked, the department shall not terminate  
20 the suspension or revocation or issue a special ignition interlock  
21 restricted driver license, if applicable, pursuant to chapter 4, article  
22 3.1 of this title until the person provides proof of financial  
23 responsibility pursuant to chapter 9, article 3 of this title.

24 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,  
25 28-3320 or 28-3322, an unlicensed resident is denied a license or permit  
26 to operate a motor vehicle, the department shall not issue a license or  
27 permit until the person provides proof of financial responsibility  
28 pursuant to chapter 9, article 3 of this title.

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

34 1. Terminate the suspension or issue a special ignition interlock  
35 restricted driver license, if applicable, pursuant to chapter 4, article  
36 3.1 of this title until the person or licensed treatment facility provides  
37 proof that the person has completed or is participating satisfactorily in  
38 alcohol or other drug screening, education or treatment.

39 2. Issue a new license or a special ignition interlock restricted  
40 driver license, if applicable, pursuant to chapter 4, article 3.1 of this  
41 title to operate a motor vehicle after the revocation until the person or  
42 licensed treatment facility provides proof that the person has completed  
43 the ~~court-ordered~~ COURT-ORDERED program.

1 D. On receipt of a report of conviction from a court for a  
2 violation that involved intoxicating liquor or that specifically requires  
3 the installation of a certified ignition interlock device, the department  
4 shall require any motor vehicle the convicted person operates to be  
5 equipped with a functioning certified ignition interlock device and the  
6 convicted person to meet the requirements prescribed in section 28-1461 as  
7 follows:

8 1. For twelve months if:

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

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

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

21 3. For twenty-four months if:

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

28 (b) The person is convicted of a violation of section 28-1383,  
29 subsection A, paragraph 1, 2, 4 or 5 or paragraph 3, subdivision (b).

30 E. The requirement prescribed in subsection D of this section  
31 begins on the date the person successfully completes the alcohol or other  
32 drug screening, education or treatment program requirements of this title  
33 and the person is otherwise eligible to reinstate the person's driver  
34 license or driving privilege. **THE PERSON SHALL BE CREDITED FOR ANY AMOUNT  
35 OF TIME THAT A PERSON WAS ISSUED A SPECIAL IGNITION INTERLOCK RESTRICTED  
36 DRIVER LICENSE FOR THE VIOLATIONS GIVING RISE TO THE REQUIREMENTS  
37 PRESCRIBED IN SUBSECTION D OF THIS SECTION OR ANY AMOUNT OF TIME THAT THE  
38 PERSON WAS ISSUED A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE  
39 PURSUANT TO SECTION 28-1321, SUBSECTION P OR 28-1385, SUBSECTION I.**

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

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

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

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

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

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

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

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

22 H. The deferment pursuant to subsection G of this section is  
23 permanent, unless the person is arrested for a violation of section  
24 28-1381, 28-1382 or 28-1383 that occurs during the period of the  
25 deferment. If the person is arrested as described in this subsection, the  
26 department shall revoke the deferment and require the person to complete  
27 the remainder of the time period prescribed in subsection D, paragraph 1,  
28 subdivision (a) of this section.

29 I. Notwithstanding any other law, the department shall reduce the  
30 length of time that a person is required to have a functioning certified  
31 ignition interlock device installed in a motor vehicle pursuant to  
32 subsection D of this section by the length of time that the person is  
33 incarcerated in a jail or prison facility for a violation of section  
34 28-1381 or 28-1383 that did not involve intoxicating liquor.

35 J. For the purposes of this section, "certified ignition interlock  
36 device" has the same meaning prescribed in section 28-1301.