

House Engrossed Senate Bill

DUI; license suspensions; restrictions

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

CHAPTER 233

SENATE BILL 1334

AN ACT

AMENDING SECTIONS 28-673, 28-1321, 28-1385, 28-1401, 28-1402, 28-1461 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 **AS PRESCRIBED IN SECTION 28-1381** or drugs. The test
16 or tests chosen by the law enforcement agency shall be administered at the
17 direction of a law enforcement officer having reasonable grounds to
18 believe that the person was driving or in actual physical control of a
19 motor vehicle in this state either:

20 1. While under the influence of intoxicating liquor **AS PRESCRIBED**
21 **IN SECTION 28-1381** or drugs.

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

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

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

41 2. The violator's driving privilege, license, permit, right to
42 apply for a license or permit or nonresident operating privilege may be
43 issued or reinstated following the period of suspension only if the
44 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 **AS PRESCRIBED**
40 **IN SECTION 28-1381** or drugs.

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 AS PRESCRIBED
19 IN SECTION 28-1381 or drugs.

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

1 shall hear the review of the final order of suspension or denial on an
2 expedited basis.

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

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

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

25 Q. NOTWITHSTANDING SECTION 28-1401, THE DEPARTMENT MAY ISSUE A
26 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE TO A PERSON FOR AN
27 OFFENSE DESCRIBED IN SUBSECTION A OF THIS SECTION. A PERSON WHO APPLIES
28 FOR AND WHO IS ISSUED A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER
29 LICENSE PURSUANT TO THIS SUBSECTION AGREES TO THE ADMINISTRATIVE ACTION
30 TAKEN BY THE DEPARTMENT AGAINST THE PERSON'S LICENSE. ONCE THE DEPARTMENT
31 ISSUES A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO
32 THIS SUBSECTION, THE PERSON WAIVES ANY RIGHT TO AN ADMINISTRATIVE HEARING
33 CONTESTING THE ADMINISTRATIVE ACTION AGAINST THE PERSON'S LICENSE PURSUANT
34 TO THIS SECTION OR SECTION 28-1385.

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

37 28-1385. Administrative license suspension for driving under
38 the influence or for homicide or assault involving
39 a motor vehicle; report; hearing; summary review;
40 ignition interlock device requirement

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

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

5 2. The person submits to a test of the person's blood, breath,
6 urine or other bodily substance that is ~~permitted~~ ALLOWED by section
7 28-1321 or any other law or a sample of blood is obtained pursuant to
8 section 28-1388 and the results are either not available or the results
9 indicate any of the following:

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

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

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

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

22 1. Information that adequately identifies the arrested person.

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

28 3. A statement that the person was arrested for a violation of
29 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
30 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
31 13-1204 involving a motor vehicle.

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

34 C. If a breath test is administered, a law enforcement agency shall
35 forward the certified report that is required by subsection A of this
36 section to the department within thirty days after the arrest occurs. If
37 a sample of blood, urine or other bodily substance is obtained, the law
38 enforcement agency shall forward the certified report that is required by
39 subsection A of this section to the department within thirty days after
40 the date the report of the analysis is provided to the law enforcement
41 agency. If a report is not forwarded to the department within the time
42 limit prescribed by this subsection, the report is inadmissible in a
43 hearing held pursuant to this section unless the violation listed in
44 subsection A of this section resulted in ~~a~~ death or serious physical

1 injury. For the purposes of this subsection, "serious physical injury"
2 has the same meaning prescribed in section 13-105.

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

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

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

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

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

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

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

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

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

31 F. If the license or permit is not surrendered pursuant to
32 subsection D of this section, the officer shall state the reason for the
33 nonsurrender. If a valid license or permit is surrendered, the officer
34 shall issue a temporary driving permit that is valid for ~~fifteen~~ THIRTY
35 days. The officer shall forward a copy of the completed order of
36 suspension and a copy of any completed temporary permit to the department
37 within five days after the issuance of the order of suspension along with
38 the report. The law enforcement agency may do either of the following
39 with a valid license or permit that is surrendered pursuant to this
40 section:

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

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

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

9 H. Notwithstanding subsections A, B, C, D, E, F and G of this
10 section **AND EXCEPT AS PROVIDED IN SUBSECTION I OF THIS SECTION**, the
11 department shall suspend the driving privileges of the person described in
12 subsection A of this section for at least thirty consecutive days and
13 shall restrict the person's driving privileges as prescribed in section
14 28-144 for at least sixty consecutive additional days if the person:

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

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

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

26 ~~4.~~ 3. Provides satisfactory evidence to the department of the
27 person's completion of alcohol or other drug screening that is ordered by
28 the department. If the person does not complete alcohol or other drug
29 screening, the department may impose a ninety day suspension pursuant to
30 this section.

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

35 **J. NOTWITHSTANDING SECTION 28-1401, THE DEPARTMENT MAY ISSUE A**
36 **SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE TO A PERSON FOR AN**
37 **OFFENSE DESCRIBED IN SUBSECTION A OF THIS SECTION. A PERSON WHO APPLIES**
38 **FOR AND WHO IS ISSUED A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER**
39 **LICENSE PURSUANT TO THIS SUBSECTION AGREES TO THE ADMINISTRATIVE ACTION**
40 **TAKEN BY THE DEPARTMENT AGAINST THE PERSON'S LICENSE. ONCE THE DEPARTMENT**
41 **ISSUES A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO**
42 **THIS SUBSECTION, THE PERSON WAIVES ANY RIGHT TO AN ADMINISTRATIVE HEARING**
43 **CONTESTING THE ADMINISTRATIVE ACTION AGAINST THE PERSON'S LICENSE PURSUANT**
44 **TO THIS SECTION OR SECTION 28-1321.**

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

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

30 ~~+~~ M. For the purposes of this section, the scope of the hearing
31 shall include only the following issues:

32 1. Whether the officer had reasonable grounds to believe the person
33 was driving or was in actual physical control of a motor vehicle while
34 under the influence of intoxicating liquor AS PRESCRIBED IN SECTION
35 28-1381 or drugs.

36 2. Whether the person was placed under arrest for a violation of
37 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
38 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
39 13-1204 involving a motor vehicle.

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

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

44 (i) 0.08 or more.

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

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

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

7 5. Whether the test results were accurately evaluated.

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

10 ~~M.~~ O. If the department determines at the hearing to suspend the
11 affected person's privilege to operate a motor vehicle, the suspension
12 provided in this section is effective ~~fifteen~~ THIRTY days after giving
13 written notice of the suspension, except that the department may issue or
14 extend a temporary license that expires on the effective date of the
15 suspension. If the person is a resident without a license or permit or has
16 an expired license or permit to operate a motor vehicle in this state, the
17 department shall deny the issuance of a license or permit to the person
18 for not less than ninety consecutive days. The department may reinstate
19 the person's driving privilege, license, permit, right to apply for a
20 license or permit or nonresident operating privilege following the period
21 of suspension only if the violator completes alcohol or other drug
22 screening.

23 ~~N.~~ P. A person may request a summary review of an order issued
24 pursuant to this section instead of a hearing at any time before the
25 effective date of the order. A timely request for summary review stays
26 the suspension until a decision is issued. The person shall submit the
27 request in writing to the department together with any written explanation
28 as to why the department should not suspend the driving privilege. The
29 department shall review all reports submitted by the officer and any
30 written explanation submitted by the person and shall determine if the
31 order of suspension should be sustained or voided. The department shall
32 not hold a hearing, and the review is not subject to title 41, chapter 6.
33 The department shall notify the person of its decision.

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

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

1 Sec. 4. Section 28-1401, Arizona Revised Statutes, is amended to
2 read:

3 28-1401. Special ignition interlock restricted driver
4 licenses; application fee

5 A. A person whose class D or class G license has been suspended
6 pursuant to section 28-1385 or suspended or revoked for a first refusal
7 pursuant to section 28-1321, a second violation of section 28-1381 or
8 28-1382 or a first violation of section 28-1383, subsection A, paragraph 3
9 may apply to the department for a special ignition interlock restricted
10 driver license that allows ~~a~~ THE person to operate a motor vehicle during
11 the period of suspension or revocation subject to the restrictions
12 ~~described in section 28-144 and~~ OF the certified ignition interlock device
13 requirements prescribed in article 5 of this chapter if the person's
14 privilege to operate a motor vehicle has been RESTRICTED, suspended or
15 revoked ~~due to an alcohol related~~ AND THE offense INVOLVED ONLY ALCOHOL
16 OR, IF THE PERSON'S ALCOHOL CONCENTRATION IS 0.08 OR MORE, A COMBINATION
17 OF DRUGS AND ALCOHOL pursuant to any of the following:

18 1. Section 28-1321, if the person meets the criteria of section
19 28-1321, subsection P.

20 2. Section 28-1381, if the person meets the criteria of section
21 28-1381, subsection O and the person presents evidence that is
22 satisfactory to the director and that shows that the person has completed
23 the requirements prescribed in section 28-1387, subsection B.

24 3. Section 28-1382, if the person meets the criteria of section
25 28-1382, subsection H and the person presents evidence that is
26 satisfactory to the director and that shows that the person has completed
27 the requirements prescribed in section 28-1387, subsection B.

28 4. Section 28-1383, if the person meets the criteria of section
29 28-1383, subsection L and the person presents evidence that is
30 satisfactory to the director and that shows that the person has completed
31 the requirements prescribed in section 28-1387, subsection B.

32 5. Section 28-1385, if the person meets the criteria of section
33 28-1385, subsection H.

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

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

42 D. If the department issues a special ignition interlock restricted
43 driver license, the department shall not delete a suspension or revocation
44 from its records.

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

4 Sec. 5. Section 28-1402, Arizona Revised Statutes, is amended to
5 read:

6 28-1402. Issuance of special ignition interlock restricted
7 driver license

8 A. On application pursuant to section 28-1401, subsection A the
9 department may, and pursuant to section 28-1401, subsection C the
10 department shall, issue a special ignition interlock restricted driver
11 license that only allows a person whose class D or class G license has
12 been suspended pursuant to section 28-1385 or suspended or revoked for a
13 first refusal pursuant to section 28-1321, a second violation of section
14 28-1381 or 28-1382 or a first violation of section 28-1383, subsection A,
15 paragraph 3 to operate a motor vehicle that is equipped with a functioning
16 certified ignition interlock device ~~and only under the restrictions~~
17 ~~described in section 28-144.~~

18 B. The department may only issue a special ignition interlock
19 restricted driver license to an applicant who is otherwise qualified by
20 law.

21 C. Except as provided in section 28-1463, if the department
22 suspends, revokes, cancels or otherwise rescinds a person's special
23 ignition interlock restricted license or privilege for any reason, the
24 department shall not issue a new license or reinstate the special ignition
25 interlock restricted driver license during the prescribed period of
26 suspension or revocation or while the person is otherwise ineligible to
27 receive a license.

28 Sec. 6. Section 28-1461, Arizona Revised Statutes, is amended to
29 read:

30 28-1461. Use of certified ignition interlock devices;
31 reporting

32 A. If a person's driving privilege is limited pursuant to section
33 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
34 28-1402:

35 1. The person shall:

36 (a) Pay the costs for installation and maintenance of the certified
37 ignition interlock device.

38 (b) Provide proof to the department of installation of a
39 functioning certified ignition interlock device in each motor vehicle
40 operated by the person.

41 (c) Provide proof of compliance to the department at least once
42 every ninety days during the period the person is ordered to use an
43 ignition interlock device.

1 (d) Provide proof of calibration of the certified ignition
2 interlock device to the department at least once every ninety days during
3 the period the person is ordered to use an ignition interlock device.

4 2. The department shall not reinstate the person's driving
5 privilege or issue a special ignition interlock restricted driver license
6 until the person has installed a functioning certified ignition interlock
7 device in each motor vehicle operated by the person and has provided proof
8 of installation to the department.

9 B. While a person maintains a functioning certified ignition
10 interlock device in a vehicle pursuant to this chapter, the ignition
11 interlock manufacturer shall electronically provide **THE FOLLOWING**
12 **INFORMATION** to the department in ~~real time and in a form~~ **THE MANNER AND**
13 **FORMAT** prescribed by the department ~~the following information~~ **IN RULE, AND**
14 **THE DEPARTMENT SHALL REJECT ANY INFORMATION THAT DOES NOT MEET THESE**
15 **REQUIREMENTS:**

16 1. Any tampering or circumvention.

17 2. Any failure to provide proof of compliance or inspection of the
18 certified ignition interlock device as prescribed in this section.

19 3. Any attempt to operate the vehicle with an alcohol concentration
20 exceeding the presumptive limit as prescribed in section 28-1381,
21 subsection G, paragraph 3 or, if the person is under twenty-one years of
22 age, any attempt to operate the vehicle with any spirituous liquor in the
23 person's body.

24 4. Each time that a person fails to properly perform any set of
25 three consecutive rolling retests that occur during a drive cycle.

26 C. If the person is under eighteen years of age, the ignition
27 interlock service provider, if requested by the person's parent or legal
28 guardian, shall provide to the person's parent or legal guardian the
29 information prescribed in subsection B of this section.

30 D. On request, the ignition interlock manufacturer shall provide
31 the information prescribed in subsection B of this section to:

32 1. The department of health services authorized provider.

33 2. The probation department that is providing alcohol or other drug
34 screening, education or treatment to the person.

35 3. The physician, psychologist, physician assistant, registered
36 nurse practitioner or substance abuse counselor who is evaluating the
37 person's ability to safely operate a motor vehicle following a revocation
38 of the person's driving privilege as prescribed in section 28-3315,
39 subsection D.

40 4. The court.

41 E. The department shall extend an ignition interlock restricted or
42 limited driver license and the certified ignition interlock device period
43 for six months if the department has reasonable grounds to believe that
44 any of the following applies:

1 1. The person tampered with or circumvented the certified ignition
2 interlock device.

3 2. The person attempted to operate the vehicle with an alcohol
4 concentration exceeding the presumptive limit as prescribed in section
5 28-1381, subsection G, paragraph 3, two or more times during the period of
6 license restriction or limitation.

7 3. If the person is under twenty-one years of age, the person
8 attempted to operate the vehicle with any spirituous liquor in the
9 person's body during the period of license restriction or limitation.

10 4. The person failed to provide proof of compliance or inspection
11 as prescribed in this section.

12 5. The person attempts to operate the vehicle with an alcohol
13 concentration of 0.08 or more during a six month extension pursuant to
14 this subsection.

15 6. The person fails to properly perform any set of three
16 consecutive rolling retests that occur during a drive cycle.

17 F. If the special ignition interlock restricted license is extended
18 pursuant to subsection E of this section, the limitations prescribed in
19 sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the
20 restrictive period of the license ends.

21 G. The department shall make a notation on the driving record of a
22 person whose driving privilege is limited pursuant to section 28-1381,
23 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
24 28-1402 that states that the person shall not operate a motor vehicle
25 unless it is equipped with a certified ignition interlock device. Unless
26 the person is convicted of a second or subsequent violation of section
27 28-1381, 28-1382 or 28-1383, the notation may not include any mark, color
28 change or other notation or indication on the person's physical driver
29 license.

30 H. Proof of compliance does not include a skipped or missed random
31 sample if the motor vehicle's ignition is off at the time of the skipped
32 or missed sample.

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

35 28-3319. Action after license suspension, revocation or
36 denial for driving under the influence or refusal
37 of test; ignition interlock device requirement;
38 definition

39 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
40 28-3320 or 28-3322, the license of a driver or the driving privilege of a
41 nonresident is suspended or revoked, the department shall not terminate
42 the suspension or revocation or issue a special ignition interlock
43 restricted driver license, if applicable, pursuant to chapter 4, article
44 3.1 of this title until the person provides proof of financial
45 responsibility pursuant to chapter 9, article 3 of this title.

1 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
2 28-3320 or 28-3322, an unlicensed resident is denied a license or permit
3 to operate a motor vehicle, the department shall not issue a license or
4 permit until the person provides proof of financial responsibility
5 pursuant to chapter 9, article 3 of this title.

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

11 1. Terminate the suspension or issue a special ignition interlock
12 restricted driver license, if applicable, pursuant to chapter 4, article
13 3.1 of this title until the person or licensed treatment facility provides
14 proof that the person has completed or is participating satisfactorily in
15 alcohol or other drug screening, education or treatment.

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

21 D. On receipt of a report of conviction from a court for a
22 violation that involved intoxicating liquor or that specifically requires
23 the installation of a certified ignition interlock device, the department
24 shall require any motor vehicle the convicted person operates to be
25 equipped with a functioning certified ignition interlock device and the
26 convicted person to meet the requirements prescribed in section 28-1461 as
27 follows:

28 1. For twelve months if:

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

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

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

41 3. For twenty-four months if:

42 (a) The person is convicted of a violation of section 28-1382,
43 subsection A, paragraph 2 and the department determines that within a
44 period of eighty-four months the person has a prior conviction of a
45 violation of section 28-1381, 28-1382 or 28-1383 or an act in another

1 jurisdiction that if committed in this state would be a violation of
2 section 28-1381, 28-1382 or 28-1383.

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

5 E. The requirement prescribed in subsection D of this section
6 begins on the date the person successfully completes the alcohol or other
7 drug screening, education or treatment program requirements of this title
8 and the person is otherwise eligible to reinstate the person's driver
9 license or driving privilege. IF THE PERSON IS ISSUED A SPECIAL IGNITION
10 INTERLOCK RESTRICTED DRIVER LICENSE FOR THE VIOLATIONS GIVING RISE TO THE
11 REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS SECTION OR PURSUANT TO
12 SECTION 28-1321, SUBSECTION P OR SECTION 28-1385, SUBSECTION I, THE PERSON
13 SHALL BE CREDITED FOR THE AMOUNT OF TIME THAT A CERTIFIED IGNITION
14 INTERLOCK DEVICE IS INSTALLED ON THE PERSON'S MOTOR VEHICLE AFTER THE
15 DEPARTMENT AUTHORIZES THE INSTALLATION OF THE CERTIFIED IGNITION INTERLOCK
16 DEVICE ON THAT PERSON'S MOTOR VEHICLE.

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

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

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

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

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

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

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

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

41 H. The deferment pursuant to subsection G of this section is
42 permanent, unless the person is arrested for a violation of section
43 28-1381, 28-1382 or 28-1383 that occurs during the period of the
44 deferment. If the person is arrested as described in this subsection, the
45 department shall revoke the deferment and require the person to complete

1 the remainder of the time period prescribed in subsection D, paragraph 1,
2 subdivision (a) of this section.

3 I. Notwithstanding any other law, the department shall reduce the
4 length of time that a person is required to have a functioning certified
5 ignition interlock device installed in a motor vehicle pursuant to
6 subsection D of this section by the length of time that the person is
7 incarcerated in a jail or prison facility for a violation of section
8 28-1381 or 28-1383 that did not involve intoxicating liquor.

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

11 Sec. 8. Effective date

12 This act is effective from and after December 31, 2022.

APPROVED BY THE GOVERNOR MAY 20, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2022.