

REFERENCE TITLE: immediate license suspension; traffic accidents

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1008

Introduced by
Senator Waring

AN ACT

AMENDING TITLE 28, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-677; AMENDING SECTIONS 28-1387, 28-3002, 28-3004 AND 28-3473, ARIZONA REVISED STATUTES; RELATING TO TRAFFIC ACCIDENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 28, chapter 3, article 4, Arizona Revised Statutes,
3 is amended by adding section 28-677, to read:

4 28-677. Administrative license suspension; traffic accident
5 involving death or serious physical injury; report;
6 hearing; summary review

7 A. IF A PERSON WHO IS INVOLVED IN A TRAFFIC ACCIDENT THAT INVOLVES
8 DEATH OR SERIOUS PHYSICAL INJURY AS DEFINED IN SECTION 13-105 SUBMITS TO A
9 TEST OR TESTS OF THE PERSON'S BLOOD, BREATH, URINE OR OTHER BODILY SUBSTANCE
10 FOR THE PURPOSE OF DETERMINING ALCOHOL CONCENTRATION OR DRUG CONTENT PURSUANT
11 TO SECTION 28-673, A LAW ENFORCEMENT OFFICER SHALL FORWARD TO THE DEPARTMENT
12 A CERTIFIED REPORT AS PRESCRIBED IN SUBSECTION B OF THIS SECTION, SUBJECT TO
13 THE PENALTY FOR PERJURY PRESCRIBED BY SECTION 28-1561.

14 B. THE OFFICER SHALL MAKE THE CERTIFIED REPORT REQUIRED BY SUBSECTION
15 A OF THIS SECTION ON FORMS SUPPLIED OR APPROVED BY THE DEPARTMENT. THE
16 REPORT SHALL STATE INFORMATION THAT IS RELEVANT TO THE ENFORCEMENT ACTION,
17 INCLUDING:

18 1. INFORMATION THAT ADEQUATELY IDENTIFIES THE PERSON TESTED.

19 2. A STATEMENT OF THE OFFICER'S GROUNDS FOR BELIEF THAT THE PERSON WAS
20 DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE THAT WAS THE CAUSE
21 OF A MOTOR VEHICLE ACCIDENT THAT RESULTS IN DEATH OR SERIOUS PHYSICAL INJURY
22 AS DEFINED IN SECTION 13-105.

23 3. A REPORT OF THE RESULTS OF THE CHEMICAL TEST THAT WAS ADMINISTERED.

24 C. IF THE RESULTS OF THE TEST OF THE PERSON'S BLOOD, BREATH, URINE OR
25 OTHER BODILY SUBSTANCE ARE NOT IMMEDIATELY AVAILABLE OR IF THE RESULTS
26 INDICATE THAT THE PERSON HAS A 0.08 OR MORE ALCOHOL CONCENTRATION IN THE
27 PERSON'S BLOOD OR BREATH OR 0.04 OR MORE ALCOHOL CONCENTRATION IN THE
28 PERSON'S BLOOD OR BREATH IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL
29 CONTROL OF A COMMERCIAL MOTOR VEHICLE, THE OFFICER SHALL ALSO SERVE AN ORDER
30 OF SUSPENSION ON THE PERSON ON BEHALF OF THE DEPARTMENT. THE ORDER OF
31 SUSPENSION:

32 1. IS EFFECTIVE IMMEDIATELY ON SERVICE OF THE ORDER.

33 2. SHALL REQUIRE THE IMMEDIATE SURRENDER OF ANY LICENSE OR PERMIT TO
34 DRIVE THAT IS ISSUED BY THIS STATE AND THAT IS IN THE POSSESSION OR CONTROL
35 OF THE PERSON.

36 3. SHALL CONTAIN INFORMATION CONCERNING THE RIGHT TO A SUMMARY REVIEW
37 AND HEARING.

38 4. SHALL BE ACCOMPANIED BY PRINTED FORMS READY TO MAIL TO THE
39 DEPARTMENT THAT THE PERSON MAY FILL OUT AND SIGN TO INDICATE THE PERSON'S
40 DESIRE FOR A HEARING.

41 5. SHALL BE ENTERED ON THE DEPARTMENT'S RECORDS ON RECEIPT OF THE
42 REPORT BY THE OFFICER AND A COPY OF THE ORDER OF SUSPENSION.

43 D. IF THE LICENSE OR PERMIT IS NOT SURRENDERED PURSUANT TO SUBSECTION
44 C OF THIS SECTION, THE OFFICER SHALL STATE THE REASON FOR THE NONSURRENDER.
45 THE OFFICER SHALL FORWARD A COPY OF THE COMPLETED ORDER OF SUSPENSION AND ANY

1 DRIVER LICENSE OR PERMIT TAKEN INTO POSSESSION UNDER THIS SECTION TO THE
2 DEPARTMENT WITHIN ONE DAY AFTER THE ISSUANCE OF THE ORDER OF SUSPENSION ALONG
3 WITH THE REPORT.

4 E. THE DEPARTMENT SHALL SUSPEND THE AFFECTED PERSON'S LICENSE OR
5 PERMIT TO DRIVE OR RIGHT TO APPLY FOR A LICENSE OR PERMIT OR ANY NONRESIDENT
6 OPERATING PRIVILEGE PENDING THE RESULTS OF ANY CHEMICAL TEST OR FOR NOT LESS
7 THAN NINETY CONSECUTIVE DAYS IF THE RESULTS OF THE TEST INDICATE EITHER:

8 1. 0.08 OR MORE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR BREATH.

9 2. 0.04 OR MORE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR BREATH
10 IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A COMMERCIAL MOTOR
11 VEHICLE.

12 3. THE PRESENCE OF ANY DRUG DEFINED IN SECTION 13-3401 OR ITS
13 METABOLITE IN THE PERSON'S BODY.

14 F. IF THE DEPARTMENT DETERMINES BEFORE A HEARING OCCURS THAT THE
15 RESULTS INDICATE THE PERSON DID NOT HAVE A 0.08 OR MORE ALCOHOL CONCENTRATION
16 IN THE PERSON'S BLOOD OR BREATH OR 0.04 OR MORE ALCOHOL CONCENTRATION IN THE
17 PERSON'S BLOOD OR BREATH IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL
18 CONTROL OF A COMMERCIAL MOTOR VEHICLE OR DID NOT HAVE ANY DRUG DEFINED IN
19 SECTION 13-3401 OR ITS METABOLITE IN THE PERSON'S BODY, THE DEPARTMENT SHALL
20 REINSTATE THE PERSON'S LICENSE OR PERMIT TO DRIVE OR RIGHT TO APPLY FOR A
21 LICENSE OR PERMIT OR ANY NONRESIDENT OPERATING PRIVILEGE AND SHALL NOTIFY THE
22 PERSON OF THE REINSTATEMENT.

23 G. THE DEPARTMENT WILL PROVIDE AN OPPORTUNITY FOR A HEARING IF THE
24 PERSON REQUESTS A HEARING IN WRITING AND THE REQUEST IS RECEIVED BY THE
25 DEPARTMENT WITHIN FIFTEEN DAYS AFTER THE SERVICE OF THE ORDER. THE
26 DEPARTMENT SHALL HOLD THE HEARING WITHIN FIFTEEN DAYS AFTER IT RECEIVES A
27 REQUEST FOR A HEARING PURSUANT TO THIS SECTION. FOR THE PURPOSES OF THIS
28 SECTION, THE SCOPE OF THE HEARING SHALL INCLUDE ONLY THE FOLLOWING ISSUES:

29 1. WHETHER THE OFFICER HAD REASONABLE GROUNDS TO BELIEVE THAT THE
30 PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE THAT WAS
31 THE CAUSE OF A MOTOR VEHICLE ACCIDENT THAT RESULTED IN DEATH OR SERIOUS
32 PHYSICAL INJURY AS DEFINED IN SECTION 13-105.

33 2. WHETHER A TEST WAS TAKEN PURSUANT TO SECTION 28-673, THE RESULTS OF
34 WHICH INDICATED ANY DRUG DEFINED IN SECTION 13-3401 OR ITS METABOLITE IN THE
35 PERSON'S BODY OR THE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR BREATH AT
36 THE TIME THE TEST WAS ADMINISTERED OF EITHER:

37 (a) 0.08 OR MORE.

38 (b) 0.04 OR MORE IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL
39 CONTROL OF A COMMERCIAL MOTOR VEHICLE.

40 4. WHETHER THE TESTING METHOD USED WAS VALID AND RELIABLE.

41 5. WHETHER THE TEST RESULTS WERE ACCURATELY EVALUATED.

42 H. THE RESULTS OF THE BLOOD OR BREATH ALCOHOL TEST SHALL BE ADMITTED
43 ON ESTABLISHING THE REQUIREMENTS IN SECTION 28-1323 OR 28-1326.

44 I. A PERSON MAY APPLY FOR A SUMMARY REVIEW OF AN ORDER ISSUED PURSUANT
45 TO THIS SECTION INSTEAD OF A HEARING AT ANY TIME BEFORE THE HEARING. THE

1 PERSON SHALL SUBMIT THE APPLICATION IN WRITING TO ANY DEPARTMENT DRIVER
2 LICENSE EXAMINING OFFICE TOGETHER WITH ANY WRITTEN EXPLANATION AS TO WHY THE
3 DEPARTMENT SHOULD REINSTATE THE DRIVING PRIVILEGE. THE DEPARTMENT SHALL
4 REVIEW ALL REPORTS SUBMITTED BY THE OFFICER AND ANY WRITTEN EXPLANATION
5 SUBMITTED BY THE PERSON AND SHALL DETERMINE IF THE ORDER OF SUSPENSION SHOULD
6 BE SUSTAINED OR CANCELED. THE DEPARTMENT SHALL NOT HOLD A HEARING, AND THE
7 REVIEW IS NOT SUBJECT TO TITLE 41, CHAPTER 6. THE DEPARTMENT SHALL NOTIFY
8 THE PERSON OF ITS DECISION.

9 J. IF THE SUSPENSION IS NOT SUSTAINED AFTER A HEARING OR REVIEW, THE
10 RULING IS NOT ADMISSIBLE IN AND DOES NOT HAVE ANY EFFECT ON ANY CIVIL OR
11 CRIMINAL COURT PROCEEDING.

12 K. IF IT HAS BEEN DETERMINED UNDER THE PROCEDURES OF THIS SECTION THAT
13 A NONRESIDENT'S PRIVILEGE TO OPERATE A MOTOR VEHICLE IN THIS STATE HAS BEEN
14 SUSPENDED, THE DEPARTMENT SHALL GIVE INFORMATION IN WRITING OF THE ACTION
15 TAKEN TO THE MOTOR VEHICLE ADMINISTRATOR OF THE STATE OF THE PERSON'S
16 RESIDENCE AND OF ANY STATE IN WHICH THE PERSON HAS A LICENSE.

17 Sec. 2. Section 28-1387, Arizona Revised Statutes, is amended to read:
18 28-1387. Prior convictions; alcohol or other drug screening,
19 education and treatment; license suspension;
20 supervised probation; civil liability; procedures

21 A. The court shall allow the allegation of a prior conviction or any
22 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
23 an act in another jurisdiction that if committed in this state would be a
24 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
25 before the date the case is actually tried and may allow the allegation of a
26 prior conviction or any other pending charge of a violation of section
27 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
28 committed in this state would be a violation of section 28-1381, 28-1382 or
29 28-1383 filed at any time before the date the case is actually tried if this
30 state makes available to the defendant when the allegation is filed a copy of
31 any information obtained concerning the prior conviction or other pending
32 charge. Any conviction may be used to enhance another conviction
33 irrespective of the dates on which the offenses occurred within the
34 eighty-four month provision. For the purposes of this article, an order of a
35 juvenile court adjudicating a person delinquent is equivalent to a
36 conviction.

37 B. In addition to any other penalties prescribed by law, the judge
38 shall order a person who is convicted of a violation of section 28-1381 or
39 28-1382 to complete alcohol or other drug screening that is provided by a
40 facility approved by the department of health services or a probation
41 department. If a judge determines that the person requires further alcohol
42 or other drug education or treatment, the person may be required pursuant to
43 court order to obtain alcohol or other drug education or treatment under the
44 court's supervision from an approved facility. The judge may review an
45 education or treatment determination at the request of the state, the

1 defendant or the probation officer or on the judge's initiative. The person
2 shall pay the costs of the screening, education or treatment unless, after
3 considering the person's ability to pay all or part of the costs, the court
4 waives all or part of the costs. If a person is referred to a screening,
5 education or treatment facility, the facility shall report to the court
6 whether the person has successfully completed the screening, education or
7 treatment program.

8 C. After a person who is sentenced pursuant to section 28-1381,
9 subsection I has served twenty-four consecutive hours in jail or after a
10 person who is sentenced pursuant to section 28-1381, subsection K or section
11 28-1382, subsection D or F has served forty-eight consecutive hours in jail
12 and after the court receives confirmation that the person is employed or is a
13 student, the court may provide in the sentence that the defendant, if the
14 defendant is employed or is a student and can continue the defendant's
15 employment or schooling, may continue the employment or schooling for not
16 more than twelve hours a day nor more than five days a week. The person
17 shall spend the remaining day, days or parts of days in jail until the
18 sentence is served and shall be allowed out of jail only long enough to
19 complete the actual hours of employment or schooling.

20 D. Unless the license of a person convicted under section 28-1381 or
21 28-1382 has been or is suspended pursuant to section 28-677, 28-1321 or
22 28-1385, the department on receipt of the abstract of conviction of a
23 violation of section 28-1381 or 28-1382 shall suspend the license of the
24 affected person for not less than ninety consecutive days.

25 E. When the department receives notification that the person meets the
26 criteria provided in section 28-1385, subsection F, the department shall
27 suspend the driving privileges of the person for not less than thirty
28 consecutive days and shall restrict the driving privileges of the person for
29 not less than sixty consecutive additional days to travel between any of the
30 following:

31 1. The person's place of employment and residence and during specified
32 periods of time while at employment.

33 2. The person's place of residence and the person's secondary or
34 postsecondary school, according to the person's employment or educational
35 schedule.

36 3. The person's place of residence and a screening, education or
37 treatment facility for scheduled appointments.

38 4. The person's place of residence and the office of the person's
39 probation officer for scheduled appointments.

40 F. If a person is placed on probation for violating section 28-1381 or
41 28-1382, the probation shall be supervised unless the court finds that
42 supervised probation is not necessary or the court does not have supervisory
43 probation services.

44 G. Any political subdivision processing or using the services of a
45 person ordered to perform community restitution pursuant to section 28-1381

1 or 28-1382 does not incur any civil liability to the person ordered to
2 perform community restitution as a result of these activities unless the
3 political subdivision or its agent or employee acts with gross negligence.

4 H. Except for another violation of this article, the state shall not
5 dismiss a charge of violating any provision of this article unless there is
6 an insufficient legal or factual basis to pursue that charge.

7 Sec. 3. Section 28-3002, Arizona Revised Statutes, is amended to read:
8 28-3002. Fees; driver licenses; disposition

9 A. The following fees are required:

10 1. For each original or initial application or renewal application, if
11 a written examination is required, for the following:

12 (a) Class A driver license, twenty-five dollars.

13 (b) Class B driver license, twenty-five dollars.

14 (c) Class C driver license, twelve dollars fifty cents.

15 (d) Class D driver license issued pursuant to section 28-3171, ten
16 dollars.

17 (e) Class M driver license issued pursuant to section 28-3171, ten
18 dollars.

19 2. Except as provided in paragraph 1, for each original, renewal or
20 reinstatement application for a class D, G or M license:

21 Age	22 Fee
23 50 or older	\$10.00
24 45-49	\$15.00
25 40-44	\$20.00
26 39 or younger	\$25.00

27 3. For each original or initial application or renewal examination, if
28 a written application is required, for the following endorsements to a driver
license:

29 (a) Bus endorsement, ten dollars.

30 (b) Hazardous materials endorsement, ten dollars.

31 (c) Tank vehicle endorsement, ten dollars.

32 (d) Double-triple trailer endorsement, ten dollars.

33 (e) Motorcycle endorsement, seven dollars.

34 4. For taking each driving test for a:

35 (a) Class A driver license, twenty-five dollars.

36 (b) Class B driver license, twenty-five dollars.

37 (c) Class C driver license, twelve dollars fifty cents.

38 (d) Bus endorsement, five dollars.

39 5. For each application for an instruction permit under:

40 (a) Section 28-3154 or 28-3156, seven dollars.

41 (b) Section 28-3155, three dollars.

42 (c) Section 28-3225, class A, twenty-five dollars.

43 (d) Section 28-3225, class B, twenty-five dollars.

44 (e) Section 28-3225, class C, twelve dollars fifty cents.

1 6. For each renewal application, if a written examination is not
2 required, for a:

3 (a) Class A driver license and any endorsement, other than a hazardous
4 materials endorsement, to the license, fifteen dollars.

5 (b) Class B driver license and any endorsement, other than a hazardous
6 materials endorsement, to the license, fifteen dollars.

7 (c) Class C driver license and any endorsement, other than a hazardous
8 materials endorsement, to the license, ten dollars.

9 7. For each application for a duplicate of a driver license, four
10 dollars.

11 8. For each application for a duplicate of an instruction permit, two
12 dollars.

13 9. In addition to the fees prescribed in paragraph 2 and except as
14 provided in paragraph 11:

15 (a) For reinstatement of driving privileges after suspension or
16 disqualification, ten dollars.

17 (b) For reinstatement of driving privileges after revocation, twenty
18 dollars.

19 10. For each application for an extension by mail of a driver license,
20 five dollars.

21 11. In addition to the fees prescribed in paragraph 2, for
22 reinstatement of driving privileges that were suspended or denied pursuant to
23 section 28-677 OR 28-1385 after completion of the suspension or revocation,
24 fifty dollars.

25 12. For vision screening tests of out-of-state drivers, five dollars.

26 13. For Class D or M driver license skills tests for out-of-state
27 drivers, fifteen dollars.

28 B. Except as otherwise provided by statute, the director shall
29 immediately deposit, pursuant to sections 35-146 and 35-147, fees collected
30 under this section in the Arizona highway user revenue fund.

31 Sec. 4. Section 28-3004, Arizona Revised Statutes, is amended to read:
32 28-3004. License records

33 A. The department shall file an application for a license and shall
34 maintain suitable indexes containing, in alphabetical order:

35 1. Each application denied, with a note on each application of the
36 reason for the denial.

37 2. Each application granted.

38 3. Except as provided in subsection B of this section, the name of
39 each licensee whose license has been suspended or revoked by the department,
40 with a note after each name of the reason for the action.

41 B. The director shall expunge from the public records maintained by
42 the department a note of a suspension or revocation made pursuant to section
43 28-677 OR 28-1385 if, after the suspension or revocation period, the licensee
44 submits a certified copy of the court record indicating a dismissal or
45 finding of not guilty of the violation on which the suspension or revocation

1 is based. The director shall not expunge the record or shall rescind the
2 expungement of the record if the licensee operates a commercial motor vehicle
3 without the proper class of commercial driver license, holds a commercial
4 driver license or is convicted of or found responsible for a violation of
5 chapter 3, 4 or 5 of this title that occurred during the suspension or
6 revocation period or if the licensee's driver license or permit is suspended
7 pursuant to section 28-1321 or suspended and restricted pursuant to section
8 [28-677 OR](#) 28-1385 during the suspension or revocation period.

9 C. The department shall file all abstracts of court records of
10 convictions and judgments it receives under the laws of this state and shall
11 maintain convenient records of the abstracts or make suitable notations on
12 the abstracts in order that an individual record of each licensee showing the
13 convictions and judgments of the licensee and the traffic accidents in which
14 the licensee has been involved is readily ascertainable and available for the
15 consideration of the department on an application for renewal of a license
16 and at other suitable times.

17 D. The department shall maintain the records pursuant to this section
18 for five years after the application, suspension, revocation or abstract of a
19 court record of conviction or judgment has become inactive.

20 Sec. 5. Section 28-3473, Arizona Revised Statutes, is amended to read:
21 [28-3473. Driving violations; classification](#)

22 A. Except as provided in subsection B or C of this section, a person
23 who drives a motor vehicle on a public highway when the person's privilege to
24 drive a motor vehicle is suspended, revoked, canceled or refused or when the
25 person is disqualified from driving is guilty of a class 1 misdemeanor.

26 B. A person who drives a motor vehicle on a public highway when the
27 person's privilege to drive a motor vehicle is restricted, suspended,
28 revoked, disqualified, canceled or refused for a violation of section
29 28-1381, 28-1382 or 28-1383, under section [28-677 OR](#) 28-1385 or as a result
30 of a conviction for an act in another jurisdiction that if committed in this
31 state is a violation of section 28-1381, 28-1382 or 28-1383 is guilty of a
32 class 1 misdemeanor and shall be sentenced to serve at least forty-eight
33 consecutive hours in jail. A judge shall not grant probation, pardon,
34 commutation or suspension of sentence or release on any basis other than on
35 the condition that the person serve at least forty-eight consecutive hours in
36 jail.

37 C. A person who drives a motor vehicle on a public highway when the
38 person's privilege to do so is suspended pursuant to either section 28-1601
39 or 28-3308 is guilty of a class 1 misdemeanor. For a first conviction under
40 this subsection, the court shall impose a fine of at least three hundred
41 dollars, except that on proper evidence of payment of a civil penalty imposed
42 by the court for the original civil violation that resulted in the
43 suspension, the court shall impose a fine of at least fifty dollars. For a
44 second or subsequent conviction under this subsection within one year after
45 the date of the first conviction, the court shall impose a fine of at least

1 five hundred dollars. A judge shall not grant probation to or suspend any
2 part or all of the imposition or execution of a sentence required by this
3 subsection, except on the condition that the person pay not less than the
4 stated fine. A judge shall not dismiss an action brought under this
5 subsection only because the defendant has paid the civil penalty that
6 resulted in the suspension.

7 D. Except for a suspension pursuant to section 28-1601 or 28-3308, on
8 receipt of a record of the conviction of a person under this section, the
9 department shall:

10 1. Extend the period of the suspension for an additional like period
11 but not more than one year from the date the person would otherwise be
12 entitled to apply for a new license if the conviction was for a charge of
13 driving a vehicle while the driver license privilege of the person was
14 suspended.

15 2. Not issue a new license for an additional period of one year from
16 and after the date the person otherwise would have been entitled to apply for
17 a new license if the conviction was for a charge of driving while the driver
18 license privilege was revoked.

19 E. If the department receives a record of the conviction of a person
20 on a charge of driving a commercial motor vehicle while the person was
21 disqualified from driving a commercial motor vehicle, the department shall
22 promptly extend the period of the disqualification for not more than one year
23 from the date the person would otherwise have been eligible to apply for a
24 new commercial driver license as defined in section 28-3001.

25 F. If the department receives a record of the conviction of a person
26 on a charge of driving a motor vehicle while the person's driver license
27 privilege was cancelled, the department shall promptly suspend the person's
28 driver license privilege for a period of not less than:

29 1. Three months for the first conviction.

30 2. Six months for a second or subsequent conviction.