

REFERENCE TITLE: **DUI; treatment; ignition interlock device**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1582

Introduced by
Senator Gray L

AN ACT

AMENDING SECTIONS 28-1321, 28-1381, 28-1382, 28-1385, 28-1387, 28-1402, 28-1461, 28-1463, 28-1464 AND 28-3319, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

28-1321. Implied consent; tests: refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; alcohol or other drug treatment; special ignition interlock restricted driver license

A. A person who operates a motor vehicle in this state gives consent, subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph 33 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:

1. While under the influence of intoxicating liquor or drugs.

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

B. After an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section, and if the violator refuses the violator shall be informed that the violator's license or permit to drive will be suspended or denied for twelve months, or for two years for a second or subsequent refusal within a period of eighty-four months, **AND THAT THE VIOLATOR'S LICENSE OR PERMIT TO DRIVE MAY BE REINSTATED ONLY ON COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS APPROVED BY THE DEPARTMENT**, unless the violator expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal. The violator shall also be informed that if the test results show a blood or breath alcohol concentration of 0.08 or more, or if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days **AND MAY BE REINSTATED ONLY AFTER THE VIOLATOR COMPLETES OR IS SATISFACTORILY PARTICIPATING IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS APPROVED BY THE DEPARTMENT. THE VIOLATOR SHALL ALSO BE INFORMED THAT IF THE TEST RESULTS SHOW A BLOOD OR BREATH ALCOHOL CONCENTRATION OF 0.15 OR MORE OR IF THE DEPARTMENT DETERMINES THAT WITHIN A PERIOD OF EIGHTY-FOUR MONTHS THE VIOLATOR HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SECTION 28-1381, 28-1382 OR**

1 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE
2 WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383, THE DEPARTMENT
3 SHALL REQUIRE ANY MOTOR VEHICLE THE PERSON OPERATES TO BE EQUIPPED WITH A
4 FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE FOR TWELVE MONTHS FOLLOWING
5 ANY PERIOD OF LICENSE SUSPENSION OR REVOCATION.

6 C. A person who is dead, unconscious or otherwise in a condition
7 rendering the person incapable of refusal is deemed not to have withdrawn the
8 consent provided by subsection A of this section and the test or tests may be
9 administered, subject to section 4-244, paragraph 33 or section 28-1381,
10 28-1382 or 28-1383.

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

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

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

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

18 (b) On behalf of the department, serve an order of suspension on the
19 person that is effective fifteen days after the date the order is served.

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

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

25 (e) If a valid license or permit is surrendered, issue a temporary
26 driving permit that is valid for fifteen days.

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

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

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

36 (a) While under the influence of intoxicating liquor or drugs.

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

39 2. The manner in which the person refused to submit to the test or
40 tests.

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

42 F. On receipt of the certified report of refusal and a copy of the
43 order of suspension and on the effective date stated on the order, the
44 department shall enter the order of suspension on its records unless a
45 written request for a hearing as provided in this section has been filed by

1 the accused person. If the department receives only the certified report of
2 refusal, the department shall notify the person named in the report in
3 writing sent by mail that:

4 1. Fifteen days after the date of issuance of the notice the
5 department will suspend the person's license or permit, driving privilege or
6 nonresident driving privilege.

7 2. The department will provide an opportunity for a hearing if the
8 person requests a hearing in writing and the request is received by the
9 department within fifteen days after the notice is sent.

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

12 1. The person may submit a written request for a hearing.

13 2. The request for a hearing must be received by the department within
14 fifteen days after the date of the notice or the order of suspension will
15 become final.

16 3. The affected person's license or permit to drive or right to apply
17 for a license or permit or any nonresident operating privilege will be
18 suspended for twelve months from that date or for two years from that date
19 for a second or subsequent refusal within a period of eighty-four months AND
20 MAY BE REINSTATED ONLY AFTER THE PERSON COMPLETES AN ALCOHOL OR OTHER DRUG
21 SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS APPROVED BY THE DEPARTMENT.

22 H. The order for suspension shall:

23 1. Be accompanied by printed forms that are ready to mail to the
24 department and that may be filled out and signed by the person to indicate
25 the person's desire for a hearing.

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

30 I. On the receipt of a request for a hearing, the department shall set
31 the hearing within thirty days in the county in which the person named in the
32 report resides unless the law enforcement agency filing the certified report
33 of refusal pursuant to subsection D of this section requests at the time of
34 its filing that the hearing be held in the county where the refusal occurred.

35 J. A timely request for a hearing stays the suspension until a hearing
36 is held, except that the department shall not return any surrendered license
37 or permit to the person but may issue temporary permits to drive that expire
38 no later than when the department has made its final decision. If the person
39 is a resident without a license or permit or has an expired license or
40 permit, the department may allow the person to apply for a license or permit.
41 If the department determines the person is otherwise entitled to the license
42 or permit, the department shall issue and retain a license or permit subject
43 to this section.

44 K. Hearings requested under this section shall be conducted in the
45 same manner and under the same conditions as provided in section 28-3306.

1 For the purposes of this section, the scope of the hearing shall include only
2 the issues of whether:

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

6 (a) While under the influence of intoxicating liquor or drugs.

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

9 2. The person was placed under arrest.

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

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

12 L. If the department determines at the hearing to suspend the affected
13 person's privilege to operate a motor vehicle, the suspension provided in
14 this section is effective fifteen days after giving written notice of the
15 suspension, except that the department may issue or extend a temporary
16 license that expires on the effective date of the suspension. If the person
17 is a resident without a license or permit or has an expired license or permit
18 to operate a motor vehicle in this state, the department shall deny to the
19 person the issuance of a license or permit for a period of twelve months
20 after the order of suspension becomes effective or for a period of two years
21 after the order of suspension becomes effective for a second or subsequent
22 refusal within a period of eighty-four months AND MAY REINSTATE THE PERSON'S
23 PRIVILEGE TO OPERATE A MOTOR VEHICLE ONLY AFTER THE PERSON COMPLETES AN
24 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS
25 APPROVED BY THE DEPARTMENT.

26 M. If the suspension order is sustained after the hearing, a motion
27 for rehearing is not required. Within thirty days after a suspension order
28 is sustained, the affected person may file a petition in the superior court
29 to review the final order of suspension or denial by the department in the
30 same manner provided in section 28-3317. The court shall hear the review of
31 the final order of suspension or denial on an expedited basis.

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

35 O. If it has been determined under the procedures of this section that
36 a nonresident's privilege to operate a motor vehicle in this state has been
37 suspended, the department shall give information in writing of the action
38 taken to the motor vehicle administrator of the state of the person's
39 residence and of any state in which the person has a license.

40 P. After completing not less than ninety consecutive days of the
41 period of suspension required by this section, a person whose driving
42 privilege is suspended pursuant to this section may apply to the department
43 for a special ignition interlock restricted driver license pursuant to
44 section 28-1401. Unless the certified ignition interlock period is extended
45 by the department pursuant to section 28-1402, a person who is issued a

1 special ignition interlock restricted driver license as provided in this
2 subsection shall maintain a functioning certified ignition interlock device
3 in compliance with this chapter during the remaining period of the suspension
4 prescribed by this section. This subsection does not apply to a person whose
5 driving privilege is suspended for a second or subsequent refusal within a
6 period of eighty-four months or a person who within a period of eighty-four
7 months has been convicted of a second or subsequent violation of article 3 of
8 this chapter or section 4-244, paragraph 33 or an act in another jurisdiction
9 that if committed in this state would be a violation of article 3 of this
10 chapter or section 4-244, paragraph 33.

11 Sec. 2. Section 28-1381, Arizona Revised Statutes, is amended to read:

12 28-1381. Driving or actual physical control while under the
13 influence; trial by jury; presumptions; admissible
14 evidence; sentencing; classification

15 A. It is unlawful for a person to drive or be in actual physical
16 control of a vehicle in this state under any of the following circumstances:

17 1. While under the influence of intoxicating liquor, any drug, a vapor
18 releasing substance containing a toxic substance or any combination of
19 liquor, drugs or vapor releasing substances if the person is impaired to the
20 slightest degree.

21 2. If the person has an alcohol concentration of 0.08 or more within
22 two hours of driving or being in actual physical control of the vehicle and
23 the alcohol concentration results from alcohol consumed either before or
24 while driving or being in actual physical control of the vehicle.

25 3. While there is any drug defined in section 13-3401 or its
26 metabolite in the person's body.

27 4. If the vehicle is a commercial motor vehicle that requires a person
28 to obtain a commercial driver license as defined in section 28-3001 and the
29 person has an alcohol concentration of 0.04 or more.

30 B. It is not a defense to a charge of a violation of subsection A,
31 paragraph 1 of this section that the person is or has been entitled to use
32 the drug under the laws of this state.

33 C. A person who is convicted of a violation of this section is guilty
34 of a class 1 misdemeanor.

35 D. A person using a drug prescribed by a medical practitioner licensed
36 pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating
37 subsection A, paragraph 3 of this section.

38 E. In any prosecution for a violation of this section, the state shall
39 allege, for the purpose of classification and sentencing pursuant to this
40 section, all prior convictions of violating this section, section 28-1382 or
41 section 28-1383 occurring within the past thirty-six months, unless there is
42 an insufficient legal or factual basis to do so.

43 F. At the arraignment, the court shall inform the defendant that the
44 defendant may request a trial by jury and that the request, if made, shall be
45 granted.

G. In a trial, action or proceeding for a violation of this section or section 28-1383 other than a trial, action or proceeding involving driving or being in actual physical control of a commercial vehicle, the defendant's alcohol concentration within two hours of the time of driving or being in actual physical control as shown by analysis of the defendant's blood, breath or other bodily substance gives rise to the following presumptions:

1. If there was at that time 0.05 or less alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was not under the influence of intoxicating liquor.

2. If there was at that time in excess of 0.05 but less than 0.08 alcohol concentration in the defendant's blood, breath or other bodily substance, that fact shall not give rise to a presumption that the defendant was or was not under the influence of intoxicating liquor, but that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

3. If there was at that time 0.08 or more alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was under the influence of intoxicating liquor.

H. Subsection G of this section does not limit the introduction of any other competent evidence bearing on the question of whether or not the defendant was under the influence of intoxicating liquor.

I. A person who is convicted of a violation of this section:

1. Shall be sentenced to serve not less than ten consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.

2. Shall pay a fine of not less than two hundred fifty dollars.

3. May be ordered by a court to perform community restitution.

4. Shall pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

5. Shall pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the state general fund. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

J. Notwithstanding subsection I, paragraph 1 of this section, at the time of sentencing the judge may suspend all but twenty-four consecutive hours of the sentence if the person completes a court OR DEPARTMENT ordered

1 alcohol or other drug screening, education or treatment program. If the
2 person fails to complete the court OR DEPARTMENT ordered alcohol or other
3 drug screening, education or treatment program, OR CONSUMES ALCOHOL, and has
4 not been placed on probation, the court shall issue an order to show cause to
5 the defendant as to why the remaining jail sentence should not be served.

6 K. If within a period of eighty-four months a person is convicted of a
7 second violation of this section or is convicted of a violation of this
8 section and has previously been convicted of a violation of section 28-1382
9 or 28-1383 or an act in another jurisdiction that if committed in this state
10 would be a violation of this section or section 28-1382 or 28-1383, the
11 person:

12 1. Shall be sentenced to serve not less than ninety days in jail,
13 thirty days of which shall be served consecutively, and is not eligible for
14 probation or suspension of execution of sentence unless the entire sentence
15 has been served.

16 2. Shall pay a fine of not less than five hundred dollars.

17 3. Shall be ordered by a court to perform at least thirty hours of
18 community restitution.

19 4. Shall have the person's driving privilege revoked for one year.
20 The court shall report the conviction to the department. On receipt of the
21 report, the department shall revoke the person's driving privilege and shall
22 require the person to equip any motor vehicle the person operates with a
23 certified ignition interlock device pursuant to section 28-3319. In
24 addition, the court may order the person to equip any motor vehicle the
25 person operates with a certified ignition interlock device for more than
26 twelve months beginning on the date of reinstatement of the person's driving
27 privilege following a suspension or revocation or on the date of the
28 department's receipt of the report of conviction, whichever occurs later.
29 The person who operates a motor vehicle with a certified ignition interlock
30 device under this paragraph shall comply with article 5 of this chapter.

31 5. Shall pay an additional assessment of one thousand two hundred
32 fifty dollars to be deposited by the state treasurer in the prison
33 construction and operations fund established by section 41-1651. This
34 assessment is not subject to any surcharge. If the conviction occurred in
35 the superior court or a justice court, the court shall transmit the assessed
36 monies to the county treasurer. If the conviction occurred in a municipal
37 court, the court shall transmit the assessed monies to the city treasurer.
38 The city or county treasurer shall transmit the monies received to the state
39 treasurer.

40 6. Shall pay an additional assessment of one thousand two hundred
41 fifty dollars to be deposited by the state treasurer in the state general
42 fund. This assessment is not subject to any surcharge. If the conviction
43 occurred in the superior court or a justice court, the court shall transmit
44 the assessed monies to the county treasurer. If the conviction occurred in a
45 municipal court, the court shall transmit the assessed monies to the city

1 treasurer. The city or county treasurer shall transmit the monies received
2 to the state treasurer.

3 L. Notwithstanding subsection K, paragraph 1 of this section, at the
4 time of sentencing, the judge may suspend all but thirty days of the sentence
5 if the person completes a court OR DEPARTMENT ordered alcohol or other drug
6 screening, education or treatment program. If the person fails to complete
7 the court OR DEPARTMENT ordered alcohol or other drug screening, education or
8 treatment PROGRAM, OR CONSUMES ALCOHOL, and has not been placed on probation,
9 the court shall issue an order to show cause as to why the remaining jail
10 sentence should not be served.

11 M. In applying the eighty-four month provision of subsection K of this
12 section, the dates of the commission of the offense shall be the determining
13 factor, irrespective of the sequence in which the offenses were committed.

14 N. A second violation for which a conviction occurs as provided in
15 this section shall not include a conviction for an offense arising out of the
16 same series of acts.

17 Sec. 3. Section 28-1382, Arizona Revised Statutes, is amended to read:

18 28-1382. Driving or actual physical control while under the
19 extreme influence of intoxicating liquor; trial by
20 jury; sentencing; classification

21 A. It is unlawful for a person to drive or be in actual physical
22 control of a vehicle in this state if the person has an alcohol concentration
23 of 0.15 or more within two hours of driving or being in actual physical
24 control of the vehicle and the alcohol concentration results from alcohol
25 consumed either before or while driving or being in actual physical control
26 of the vehicle.

27 B. A person who is convicted of a violation of this section is guilty
28 of driving or being in actual physical control of a vehicle while under the
29 extreme influence of intoxicating liquor.

30 C. At the arraignment, the court shall inform the defendant that the
31 defendant may request a trial by jury and that the request, if made, shall be
32 granted.

33 D. A person who is convicted of a violation of this section:

34 1. Shall be sentenced to serve not less than thirty consecutive days
35 in jail and is not eligible for probation or suspension of execution of
36 sentence unless the entire sentence is served.

37 2. Shall pay a fine of not less than two hundred fifty dollars. The
38 fine prescribed in this paragraph and any assessments, restitution and
39 incarceration costs shall be paid before the assessment prescribed in
40 paragraph 3 of this subsection.

41 3. Shall pay an additional assessment of two hundred fifty dollars. If
42 the conviction occurred in the superior court or a justice court, the court
43 shall transmit the monies received pursuant to this paragraph to the county
44 treasurer. If the conviction occurred in a municipal court, the court shall
45 transmit the monies received pursuant to this paragraph to the city

1 treasurer. The city or county treasurer shall transmit the monies received
2 to the state treasurer. The state treasurer shall deposit the monies
3 received in the driving under the influence abatement fund established by
4 section 28-1304.

5 4. May be ordered by a court to perform community restitution.

6 5. Shall be required by the department, on receipt of the report of
7 conviction, to equip any motor vehicle the person operates with a certified
8 ignition interlock device pursuant to section 28-3319. In addition, the
9 court may order the person to equip any motor vehicle the person operates
10 with a certified ignition interlock device for more than twelve months
11 beginning on the date of reinstatement of the person's driving privilege
12 following a suspension or revocation or on the date of the department's
13 receipt of the report of conviction, whichever occurs later. The person who
14 operates a motor vehicle with a certified ignition interlock device under
15 this paragraph shall comply with article 5 of this chapter.

16 6. Shall pay an additional assessment of one thousand dollars to be
17 deposited by the state treasurer in the prison construction and operations
18 fund established by section 41-1651. This assessment is not subject to any
19 surcharge. If the conviction occurred in the superior court or a justice
20 court, the court shall transmit the assessed monies to the county treasurer.
21 If the conviction occurred in a municipal court, the court shall transmit the
22 assessed monies to the city treasurer. The city or county treasurer shall
23 transmit the monies received to the state treasurer.

24 7. Shall pay an additional assessment of one thousand dollars to be
25 deposited by the state treasurer in the state general fund. This assessment
26 is not subject to any surcharge. If the conviction occurred in the superior
27 court or a justice court, the court shall transmit the assessed monies to the
28 county treasurer. If the conviction occurred in a municipal court, the court
29 shall transmit the assessed monies to the city treasurer. The city or county
30 treasurer shall transmit the monies received to the state treasurer.

31 E. Notwithstanding subsection D, paragraph 1 of this section, at the
32 time of sentencing the judge may suspend all but ten days of the sentence if
33 the person completes a court OR DEPARTMENT ordered alcohol or other drug
34 screening, education or treatment program AND DOES NOT CONSUME ALCOHOL FOR A
35 PERIOD OF AT LEAST THIRTY DAYS AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
36 MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING. If the person fails
37 to complete the court OR DEPARTMENT ordered alcohol or other drug screening,
38 education or treatment program, OR CONSUMES ALCOHOL, and has not been placed
39 on probation, the court shall issue an order to show cause to the defendant
40 as to why the remaining jail sentence should not be served.

41 F. If within a period of eighty-four months a person is convicted of a
42 second violation of this section or is convicted of a violation of this
43 section and has previously been convicted of a violation of section 28-1381
44 or 28-1383 or an act in another jurisdiction that if committed in this state

1 would be a violation of this section or section 28-1381 or 28-1383, the
2 person:

3 1. Shall be sentenced to serve not less than one hundred twenty days
4 in jail, sixty days of which shall be served consecutively, and is not
5 eligible for probation or suspension of execution of sentence unless the
6 entire sentence has been served.

7 2. Shall pay a fine of not less than five hundred dollars. The fine
8 prescribed in this paragraph and any assessments, restitution and
9 incarceration costs shall be paid before the assessment prescribed in
10 paragraph 3 of this subsection.

11 3. Shall pay an additional assessment of two hundred fifty
12 dollars. If the conviction occurred in the superior court or a justice
13 court, the court shall transmit the monies received pursuant to this
14 paragraph to the county treasurer. If the conviction occurred in a municipal
15 court, the court shall transmit the monies received pursuant to this
16 paragraph to the city treasurer. The city or county treasurer shall transmit
17 the monies received to the state treasurer. The state treasurer shall
18 deposit the monies received in the driving under the influence abatement fund
19 established by section 28-1304.

20 4. Shall be ordered by a court to perform at least thirty hours of
21 community restitution.

22 5. Shall have the person's driving privilege revoked for at least one
23 year. The court shall report the conviction to the department. On receipt
24 of the report, the department shall revoke the person's driving privilege and
25 shall require the person to equip any motor vehicle the person operates with
26 a certified ignition interlock device pursuant to section 28-3319. In
27 addition, the court may order the person to equip any motor vehicle the
28 person operates with a certified ignition interlock device for more than
29 twelve months beginning on the date of reinstatement of the person's driving
30 privilege following a suspension or revocation or on the date of the
31 department's receipt of the report of conviction, whichever is later. The
32 person who operates a motor vehicle with a certified ignition interlock
33 device under this paragraph shall comply with article 5 of this chapter.

34 6. Shall pay an additional assessment of one thousand two hundred
35 fifty dollars to be deposited by the state treasurer in the prison
36 construction and operations fund established by section 41-1651. This
37 assessment is not subject to any surcharge. If the conviction occurred in
38 the superior court or a justice court, the court shall transmit the assessed
39 monies to the county treasurer. If the conviction occurred in a municipal
40 court, the court shall transmit the assessed monies to the city treasurer.
41 The city or county treasurer shall transmit the monies received to the state
42 treasurer.

43 7. Shall pay an additional assessment of one thousand two hundred
44 fifty dollars to be deposited by the state treasurer in the state general
45 fund. This assessment is not subject to any surcharge. If the conviction

1 occurred in the superior court or a justice court, the court shall transmit
2 the assessed monies to the county treasurer. If the conviction occurred in a
3 municipal court, the court shall transmit the assessed monies to the city
4 treasurer. The city or county treasurer shall transmit the monies received
5 to the state treasurer.

6 G. Notwithstanding subsection F, paragraph 1 of this section, at the
7 time of sentencing, the judge may suspend all but sixty days of the sentence
8 if the person completes a court OR DEPARTMENT ordered alcohol or other drug
9 screening, education or treatment program AND DOES NOT CONSUME ALCOHOL FOR A
10 PERIOD OF AT LEAST NINETY DAYS AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
11 MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING. If the person fails
12 to complete the court OR DEPARTMENT ordered alcohol or other drug screening,
13 education or treatment program, OR CONSUMES ALCOHOL, and has not been placed
14 on probation, the court shall issue an order to show cause as to why the
15 remaining jail sentence should not be served.

16 H. In applying the eighty-four month provision of subsection F of this
17 section, the dates of the commission of the offense shall be the determining
18 factor, irrespective of the sequence in which the offenses were committed.

19 I. A second violation for which a conviction occurs as provided in
20 this section shall not include a conviction for an offense arising out of the
21 same series of acts.

22 J. A person who is convicted of a violation of this section is guilty
23 of a class 1 misdemeanor.

24 Sec. 4. Section 28-1385, Arizona Revised Statutes, is amended to read:

25 28-1385. Administrative license suspension for driving under
26 the influence: report: hearing: summary review:
27 alcohol or other drug treatment: ignition interlock
28 device

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

33 1. The officer arrests a person for a violation of section 4-244,
34 paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

35 2. The person submits to a blood or breath alcohol test permitted by
36 section 28-1321, the results of which indicate either:

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

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

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

1 1. Information that adequately identifies the arrested person.
2 2. A statement of the officer's grounds for belief that the person was
3 driving or in actual physical control of a motor vehicle in violation of
4 section 4-244, paragraph 33, section 28-1381 or section 28-1382.
5 3. A statement that the person was arrested for a violation of section
6 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383.
7 4. A report of the results of the chemical test that was administered.
8 C. The officer shall also serve an order of suspension on the person
9 on behalf of the department. The order of suspension:
10 1. Is effective fifteen days after the date it is served.
11 2. Shall require the immediate surrender of any license or permit to
12 drive that is issued by this state and that is in the possession or control
13 of the person.
14 3. Shall contain information concerning the right to a summary review
15 and hearing, including information concerning the hearing as required by
16 section 28-1321, subsections G and H.
17 4. Shall be accompanied by printed forms ready to mail to the
18 department that the person may fill out and sign to indicate the person's
19 desire for a hearing.
20 5. Shall be entered on the department's records on receipt of the
21 report by the officer and a copy of the order of suspension.
22 D. If the license or permit is not surrendered pursuant to subsection
23 C of this section, the officer shall state the reason for the nonsurrender.
24 If a valid license or permit is surrendered, the officer shall issue a
25 temporary driving permit that is valid for fifteen days. The officer shall
26 forward a copy of the completed order of suspension, a copy of any completed
27 temporary permit and any driver license or permit taken into possession under
28 this section to the department within five days after the issuance of the
29 order of suspension along with the report.
30 E. The department shall suspend the affected person's license or
31 permit to drive or right to apply for a license or permit or any nonresident
32 operating privilege for not less than ninety consecutive days from that date.
33 THE PERSON'S LICENSE, PERMIT OR NONRESIDENT OPERATING PRIVILEGE MAY BE
34 REINSTATED ONLY AFTER THE PERSON COMPLETES OR IS SATISFACTORILY PARTICIPATING
35 IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS
36 APPROVED BY THE DEPARTMENT.
37 F. IF THE RESULTS OF THE BLOOD OR BREATH ALCOHOL TEST INDICATE AN
38 ALCOHOL CONCENTRATION OF 0.15 OR MORE OR IF THE DEPARTMENT DETERMINES THAT
39 WITHIN A PERIOD OF EIGHTY-FOUR MONTHS THE PERSON HAS PREVIOUSLY BEEN
40 CONVICTED OF A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 OR AN ACT IN
41 ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF
42 SECTION 28-1381, 28-1382 OR 28-1383, THE DEPARTMENT SHALL REQUIRE ANY MOTOR
43 VEHICLE THE PERSON OPERATES TO BE EQUIPPED WITH A FUNCTIONING CERTIFIED
44 IGNITION INTERLOCK DEVICE FOR TWELVE MONTHS FOLLOWING THE PERIOD OF
45 SUSPENSION OR REVOCATION.

~~F.~~ G. Notwithstanding subsections A through E of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between the person's place of employment and residence and during specified periods of time while at employment, to travel between the person's place of residence and the person's secondary or postsecondary school, according to the person's employment or educational schedule, to travel between the person's place of residence and the office of the person's probation officer for scheduled appointments or to travel between the person's place of residence and a screening, education or treatment facility for scheduled appointments if the person:

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

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

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

4. HAS COMPLETED OR IS SATISFACTORILY PARTICIPATING IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS APPROVED BY THE DEPARTMENT.

~~G.~~ H. If the department receives only the report of the results of the blood or breath alcohol test and the results indicate 0.08 or more alcohol concentration in the person's blood or breath, or show a blood or breath alcohol concentration of 0.04 or more and the person was driving or in actual physical control of a commercial motor vehicle, the department shall notify the person named in the report in writing sent by mail that fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege. The notice shall also state that the department will provide an opportunity for a hearing and administrative review if the person requests a hearing or review in writing and the request is received by the department within fifteen days after the notice is sent.

~~H.~~ I. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a license or permit. If the department determines the person is otherwise entitled to the license

1 or permit, the department shall issue, but retain, the license or permit,
2 subject to this section. All hearings requested under this section shall be
3 conducted in the same manner and under the same conditions as provided in
4 section 28-3306.

5 ~~I.~~ J. For the purposes of this section, the scope of the hearing
6 shall include only the following issues:

7 1. Whether the officer had reasonable grounds to believe the person
8 was driving or was in actual physical control of a motor vehicle while under
9 the influence of intoxicating liquor.

10 2. Whether the person was placed under arrest for a violation of
11 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
12 28-1383.

13 3. Whether a test was taken, the results of which indicated the
14 alcohol concentration in the person's blood or breath at the time the test
15 was administered of either:

16 (a) 0.08 or more.

17 (b) 0.04 or more if the person was driving or in actual physical
18 control of a commercial motor vehicle.

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

20 5. Whether the test results were accurately evaluated.

21 6. IF WITHIN A PERIOD OF EIGHTY-FOUR MONTHS, THE PERSON HAS PREVIOUSLY
22 BEEN CONVICTED OF A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 OR AN
23 ACT IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A
24 VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383.

25 ~~J.~~ K. The results of the blood or breath alcohol test shall be
26 admitted on establishing the requirements in section 28-1323 or 28-1326.

27 ~~K.~~ L. If the department determines at the hearing to suspend the
28 affected person's privilege to operate a motor vehicle, the suspension
29 provided in this section is effective fifteen days after giving written
30 notice of the suspension, except that the department may issue or extend a
31 temporary license that expires on the effective date of the suspension. If
32 the person is a resident without a license or permit or has an expired
33 license or permit to operate a motor vehicle in this state, the department
34 shall deny the issuance of a license or permit to the person for not less
35 than ninety consecutive days.

36 ~~L.~~ M. A person may apply for a summary review of an order issued
37 pursuant to this section instead of a hearing at any time before the
38 effective date of the order. The person shall submit the application in
39 writing to any department driver license examining office together with any
40 written explanation as to why the department should not suspend the driving
41 privilege. The agent of the department receiving the notice shall issue to
42 the person an additional driving permit that expires twenty days from the
43 date the request is received. The department shall review all reports
44 submitted by the officer and any written explanation submitted by the person
45 and shall determine if the order of suspension should be sustained or

1 cancelled. The department shall not hold a hearing, and the review is not
2 subject to title 41, chapter 6. The department shall notify the person of
3 its decision before the temporary driving permit expires.

4 ~~M.~~ N. If the suspension or determination that there should be a
5 denial of issuance is not sustained after a hearing or review, the ruling is
6 not admissible in and does not have any effect on any civil or criminal court
7 proceeding.

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

13 Sec. 5. Section 28-1387, Arizona Revised Statutes, is amended to read:

14 28-1387. Prior convictions; alcohol or other drug screening,
15 education and treatment; license suspension;
16 supervised probation; civil liability; procedures

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

33 B. In addition to any other penalties prescribed by law, the judge
34 shall order a person who is convicted of a violation of section 28-1381 or
35 28-1382 to complete alcohol or other drug screening that is provided by a
36 facility approved by the department of health services or a probation
37 department. If a judge determines that the person requires further alcohol
38 or other drug education or treatment, the person may be required pursuant to
39 court order to obtain alcohol or other drug education or treatment under the
40 court's supervision from an approved facility. The judge may review an
41 education or treatment determination at the request of the state, the
42 defendant or the probation officer or on the judge's initiative. The person
43 shall pay the costs of the screening, education or treatment unless, after
44 considering the person's ability to pay all or part of the costs, the court
45 waives all or part of the costs. If a person is referred to a screening,

1 education or treatment facility, the facility shall report to the court
2 whether the person has successfully completed the screening, education or
3 treatment program.

4 C. After a person who is sentenced pursuant to section 28-1381,
5 subsection I has served twenty-four consecutive hours in jail or after a
6 person who is sentenced pursuant to section 28-1381, subsection K or section
7 28-1382, subsection D or F has served forty-eight consecutive hours in jail
8 and after the court receives confirmation that the person is employed or is a
9 student, the court may provide in the sentence that the defendant, if the
10 defendant is employed or is a student and can continue the defendant's
11 employment or schooling, may continue the employment or schooling for not
12 more than twelve hours a day nor more than five days a week. The person
13 shall spend the remaining day, days or parts of days in jail until the
14 sentence is served and shall be allowed out of jail only long enough to
15 complete the actual hours of employment or schooling.

16 D. Unless the license of a person convicted under section 28-1381 or
17 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
18 department on receipt of the abstract of conviction of a violation of section
19 28-1381 or 28-1382 shall suspend the license of the affected person for not
20 less than ninety consecutive days.

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

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

29 2. The person's place of residence and the person's secondary or
30 postsecondary school, according to the person's employment or educational
31 schedule.

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

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

36 F. If a person is placed on probation for violating section 28-1381 or
37 28-1382, the probation shall be supervised unless the court finds that
38 supervised probation is not necessary or the court does not have supervisory
39 probation services.

40 G. Any political subdivision processing or using the services of a
41 person ordered to perform community restitution pursuant to section 28-1381
42 or 28-1382 does not incur any civil liability to the person ordered to
43 perform community restitution as a result of these activities unless the
44 political subdivision or its agent or employee acts with gross negligence.

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

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

5 28-1402. Issuance of special ignition interlock restricted
6 driver license; restrictions; extension

7 A. On application pursuant to section 28-1401, subsection A the
8 department may, and pursuant to section 28-1401, subsection C the department
9 shall, issue a special ignition interlock restricted driver license that only
10 allows a person whose class D or class G license has been suspended or
11 revoked for a first offense of section 28-1321 or section 28-1383, subsection
12 A, paragraph 3 to operate a motor vehicle that is equipped with a functioning
13 certified ignition interlock device and only as follows:

14 1. Between the person's place of employment and residence during
15 specified periods of time while at employment.

16 2. Between the person's place of residence, the person's place of
17 employment and the person's secondary or postsecondary school according to
18 the person's employment or educational schedule.

19 3. Between the person's place of residence and a screening, education
20 or treatment facility for scheduled appointments.

21 4. Between the person's place of residence and the office of the
22 person's probation officer for scheduled appointments.

23 5. Between the person's place of residence and the office of a
24 physician or other health care professional.

25 6. Between the person's place of residence and a certified ignition
26 interlock device service facility.

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

29 C. For as long as the person maintains a functioning certified
30 ignition interlock device in the vehicle pursuant to this chapter, each time
31 an installer obtains information recorded by a certified ignition interlock
32 device the installer shall electronically provide TO THE DEPARTMENT AND THE
33 COURT THAT ORDERED THE IGNITION INTERLOCK DEVICE, in a form prescribed by the
34 department, the following information:

35 1. Any tampering or circumvention.

36 2. Any failure to provide proof of compliance or inspection of the
37 certified ignition interlock device as prescribed in section 28-1461.

38 3. Any attempts to operate the vehicle with an alcohol concentration
39 exceeding the presumptive limit as prescribed in section 28-1381, subsection
40 G, paragraph 3, or if the person is under twenty-one years of age, attempts
41 to operate the vehicle with any spirituous liquor in the person's body.

42 D. The department may extend the special ignition interlock restricted
43 driver license and the certified ignition interlock device period if the
44 department has reasonable grounds to believe that any of the following
45 applies:

1 1. The person tampered with the certified ignition interlock device.

2 2. The person attempted to operate the vehicle with an alcohol
3 concentration exceeding the presumptive limit as prescribed in section
4 28-1381, subsection G, paragraph 3, or if the person is under twenty-one
5 years of age, the person attempted to operate the vehicle with any spirituous
6 liquor in the person's body, three or more times during the period of license
7 restriction or limitation.

8 3. The person failed to provide proof of compliance or inspection as
9 prescribed in section 28-1461.

10 E. If the special ignition interlock restricted license is extended
11 pursuant to subsection D of this section, the limitations prescribed in
12 sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the
13 restrictive period of the license ends.

14 F. Except as provided in section 28-1463, if the department suspends,
15 revokes, cancels or otherwise rescinds a person's special ignition interlock
16 restricted license or privilege for any reason, the department shall not
17 issue a new license or reinstate the special ignition interlock restricted
18 driver license during the prescribed period of suspension or revocation or
19 while the person is otherwise ineligible to receive a license.

20 Sec. 7. Section 28-1461, Arizona Revised Statutes, is amended to read:

21 28-1461. Use of certified ignition interlock devices

22 A. If a person's driving privilege is limited pursuant to section
23 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
24 section 28-1402:

25 1. The person shall:

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

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

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

34 (d) Provide proof of inspection of the certified ignition interlock
35 device for accurate operation and the results of the inspection to the
36 department at least once every ninety days during the period the person is
37 ordered to use an ignition interlock device.

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

43 B. The department shall make a notation on the driving record of a
44 person whose driving privilege is limited pursuant to section 28-1381,
45 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section

28-1402 that states that the person shall not operate a motor vehicle unless it is equipped with a certified ignition interlock device.

Sec. 8. Section 28-1463, Arizona Revised Statutes, is amended to read: 28-1463. Proof of compliance; suspension; hearings

A. If a person whose driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section 28-1402 does not submit proof of compliance to the department as prescribed in section 28-1461, the department shall suspend the person's driving privilege until proof of compliance is submitted to the department. Unless a different time period is specified, the department shall require use of the certified ignition interlock device for one year from the date the person submits proof of compliance as prescribed in section 28-1461. If a person does not request a hearing pursuant to subsection B of this section, the department shall immediately suspend the person's driver license.

B. A person whose driver license is suspended pursuant to this section may submit a written request for a hearing. The written request must be received by the department within fifteen days after the date of the order of suspension. On receipt of a request for a hearing, a hearing shall be held within thirty days.

C. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered driver license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision.

D. Hearings requested pursuant to this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the person was ordered or required to equip a motor vehicle with an ignition interlock device pursuant to article 3 or 3.1 of this chapter or section 28-3319.

2. Whether the person submitted proof of compliance or inspection pursuant to section 28-1461.

Sec. 9. Section 28-1464, Arizona Revised Statutes, is amended to read: 28-1464. Ignition interlock devices; violations; classification; definition

A. A person whose driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section 28-1402 and who is required to operate a motor vehicle owned by the person's employer in the course and scope of the person's employment may operate that motor vehicle without the installation of a certified ignition interlock device if the person notifies the person's employer that the person, in conjunction with the person's sentence or if the person has been issued a special ignition interlock restricted driver license pursuant to section 28-1402, has specific requirements in order to operate a motor vehicle and the nature of the requirements and the person has proof of the

1 employer's notification in the person's possession while operating the
2 employer's motor vehicle for normal business. For the purposes of this
3 subsection, a motor vehicle that is partly or entirely owned or controlled by
4 the person whose driving privilege is limited pursuant to section 28-1381,
5 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
6 28-1402 is not a motor vehicle that is owned by an employer.

7 B. Except in cases of a substantial emergency, a person shall not
8 knowingly rent, lease or lend a motor vehicle to a person whose driving
9 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385
10 or 28-3319 or restricted pursuant to section 28-1402 unless the motor vehicle
11 is equipped with a functioning certified ignition interlock device.

12 C. A person whose driving privilege is limited pursuant to section
13 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
14 section 28-1402 and who rents, leases or borrows a motor vehicle from another
15 person shall notify the person who rents, leases or lends the motor vehicle
16 to the person that the person has specific requirements for the operation of
17 the motor vehicle and the nature of the requirements.

18 D. During any period when a person whose driving privilege is limited
19 pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or
20 restricted pursuant to section 28-1402 is required to operate only a motor
21 vehicle that is equipped with a certified ignition interlock device, the
22 person shall not request or permit any other person to breathe into the
23 ignition interlock device or start a motor vehicle equipped with an ignition
24 interlock device for the purpose of providing the person with an operable
25 motor vehicle.

26 E. A person shall not breathe into an ignition interlock device or
27 start a motor vehicle equipped with an ignition interlock device for the
28 purpose of providing an operable motor vehicle to a person whose driving
29 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385
30 or 28-3319 or restricted pursuant to section 28-1402.

31 F. A person whose driving privilege is limited pursuant to section
32 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
33 section 28-1402 shall not tamper with or circumvent the operation of an
34 ignition interlock device.

35 G. A person who is not a manufacturer's authorized installer or an
36 agent of a manufacturer's authorized installer and who is not a person whose
37 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383,
38 28-1385 or 28-3319 or restricted pursuant to section 28-1402 shall not tamper
39 with or circumvent the operation of an ignition interlock device.

40 H. Except as provided in subsection A of this section or in cases of
41 substantial emergency, a person whose driving privilege is limited pursuant
42 to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted
43 pursuant to section 28-1402 shall not operate a motor vehicle without a
44 functioning certified ignition interlock device during the applicable time
45 period.

I. If the ignition interlock device is removed from a vehicle by an installer, the installer shall electronically notify the department in a form prescribed by the department that the ignition interlock device has been removed from the vehicle.

J. If the person does not provide evidence to the department within seventy-two hours that the person has installed a functioning certified ignition interlock device in each vehicle operated by the person and has provided proof of installation to the department, the department shall suspend the special ignition interlock restricted driver license or privilege as prescribed in section 28-1463.

K. A person who violates this section is guilty of a class 1 misdemeanor. Additionally, if a person is convicted of violating subsection A, C, D, F or H of this section, the department shall extend the duration of the certified ignition interlock device requirement for not more than one year.

L. For the purposes of this section, "substantial emergency" means that a person other than the person whose driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section 28-1402 is not reasonably available to drive in response to an emergency.

Sec. 10. Section 28-3319, Arizona Revised Statutes, is amended to read:

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

A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-1385, 28-3320 or 28-3322, the license of a driver or the driving privilege of a nonresident is suspended or revoked, the department shall not terminate the suspension or revocation or issue a special ignition interlock restricted driver license, if applicable, pursuant to chapter 4, article 3.1 of this title until the person provides proof of financial responsibility pursuant to chapter 9, article 3 of this title.

B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-1385, 28-3320 or 28-3322, an unlicensed resident is denied a license or permit to operate a motor vehicle, the department shall not issue a license or permit until the person provides proof of financial responsibility pursuant to chapter 9, article 3 of this title.

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

1. Terminate the suspension or issue a special ignition interlock restricted driver license, if applicable, pursuant to chapter 4, article 3.1 of this title until the person provides proof from the treatment facility

1 that the person has completed or is participating satisfactorily in alcohol
2 or other drug screening, education or treatment.

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

8 D. On receipt of a report of conviction from a court, the department
9 shall require any motor vehicle the convicted person operates to be equipped
10 with a functioning certified ignition interlock device and the convicted
11 person to meet the requirements prescribed in section 28-1461 for twelve
12 months if any of the following applies:

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

18 2. The conviction is for a violation of section 28-1382.

19 3. The conviction is for a violation of section 28-1383, subsection A,
20 paragraph 1, 2 or 4 or paragraph 3, subdivision (b).

21 E. The twelve month period prescribed in subsection D of this section
22 begins on the date of reinstatement of the person's driving privilege
23 following a suspension or revocation or on the date of the department's
24 receipt of the report of conviction, whichever occurs later.

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

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

30 Sec. 11. Driving under the influence abatement fund: continuous
31 alcohol monitoring

32 Notwithstanding section 28-1304, Arizona Revised Statutes, the
33 oversight council on driving or operating under the influence abatement
34 established by section 28-1303, Arizona Revised Statutes, shall make a grant
35 of \$_____ from the driving under the influence abatement fund
36 established by section 28-1304, Arizona Revised Statutes, in fiscal year
37 2007-2008 to entities that provide continuous alcohol monitoring.