

Senate Engrossed House Bill

~~restricted license; DUI; suspension report~~
(now: restricted license; DUI; suspension)

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2296

AN ACT

AMENDING SECTIONS 28-144, 28-693, 28-695, 28-708, 28-1385, 28-1387, 28-1401, 28-3304 AND 28-3315, ARIZONA REVISED STATUTES; RELATING TO DRIVING RESTRICTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-144, Arizona Revised Statutes, is amended to
3 read:

4 28-144. Driver license or permit restrictions

5 A. Except as otherwise provided by law, a restriction on a person's
6 driver license or permit to drive as a result of a conviction for a
7 violation of this title may limit the person's privilege to drive for the
8 following applicable purposes:

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

11 2. Between the person's residence or place of employment and the
12 person's school according to the person's employment or education
13 schedule.

14 3. Between the person's residence, place of employment or school
15 and the office of a health professional as defined in section 32-3201.

16 4. Between the person's residence, place of employment or school
17 and a screening, education or treatment facility for scheduled
18 appointments.

19 5. Between the person's residence, place of employment or school
20 and the office of the person's probation officer for scheduled
21 appointments, **INCLUDING ANY APPOINTMENT THAT IS REQUIRED TO FULFILL A**
22 **CONDITION OR REQUIREMENT THAT IS IMPOSED ON THE PERSON BY THIS STATE OR A**
23 **POLITICAL SUBDIVISION OF THIS STATE.**

24 6. Between the person's residence, place of employment or school
25 and a certified ignition interlock device service facility.

26 7. Between the person's residence and a location designated for the
27 purpose of parenting time as defined in section 25-401.

28 8. To transport a dependent person ~~who is living with the driver,~~
29 between the driver's **OR DEPENDENT PERSON'S** residence and the dependent
30 person's employment, school or medical appointment.

31 **9. BETWEEN THE PERSON'S RESIDENCE AND COURT-ORDERED SCREENING,**
32 **EDUCATION OR TREATMENT FOR SCHEDULED APPOINTMENTS.**

33 B. ~~The provisions of~~ This section ~~do~~ **DOES** not apply to a person who
34 is the holder of a commercial driver license issued pursuant to this
35 title.

36 Sec. 2. Section 28-693, Arizona Revised Statutes, is amended to
37 read:

38 28-693. Reckless driving; violation; classification; license;
39 surrender

40 A. A person who drives a vehicle in reckless disregard for the
41 safety of persons or property is guilty of reckless driving.

42 B. A person **WHO IS** convicted of reckless driving is guilty of a
43 class 2 misdemeanor.

1 C. In addition, the judge may require the surrender to a police
2 officer of any driver license of the convicted person, shall report the
3 conviction to the department and may order the driving privileges of the
4 person to be suspended for a period of not more than ninety days. On
5 receipt of the abstract of conviction and order, the department shall
6 suspend the driving privilege of the person for the period of time ordered
7 by the judge.

8 D. If a person who is convicted of a violation of this section has
9 been previously convicted of a violation of this section, section 13-1102
10 or section 13-1103, subsection A, paragraph 1, in the driving of a
11 vehicle, or section 28-694, 28-708, 28-1381, 28-1382 or 28-1383 within a
12 period of twenty-four months:

13 1. The person is guilty of a class 1 misdemeanor.

14 2. The person is not eligible for probation, pardon, suspension of
15 sentence or release on any basis until the person has served not less than
16 twenty days in jail.

17 3. The judge may require the surrender to a police officer of any
18 driver license of the person and shall immediately forward the abstract of
19 conviction to the department.

20 4. On receipt of the abstract of conviction, the department shall
21 ~~revoke~~ SUSPEND the driving privilege of the person FOR ONE YEAR.

22 E. In applying the twenty-four month period provision of subsection
23 D of this section, the dates of the commission of the offense shall be the
24 determining factor, irrespective of the sequence in which the offenses
25 were committed. A second or subsequent violation for which a conviction
26 occurs as provided in this section does not include a conviction for an
27 offense arising out of the same series of acts.

28 F. On pronouncement of a jail sentence under this section, and
29 after the court receives confirmation that the person is employed or is a
30 student, the court may provide in the sentence that if the defendant is
31 employed or is a student the defendant can continue employment or
32 schooling for not more than twelve hours per day nor more than five days
33 per week. The defendant shall spend the remaining days or parts of days
34 in jail until the sentence is served and shall be allowed out of jail only
35 long enough to complete the defendant's actual hours of employment or
36 schooling.

37 G. AFTER COMPLETING NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS OF
38 THE SUSPENSION PERIOD REQUIRED BY SUBSECTION D OF THIS SECTION, A PERSON
39 WHOSE DRIVING PRIVILEGE IS SUSPENDED FOR A VIOLATION OF THIS SECTION AND
40 WHO IS SENTENCED PURSUANT TO SUBSECTION D OF THIS SECTION MAY APPLY TO THE
41 DEPARTMENT FOR A RESTRICTED DRIVER LICENSE THAT ALLOWS THE PERSON TO
42 OPERATE A MOTOR VEHICLE DURING THE PERIOD OF SUSPENSION SUBJECT TO THE
43 RESTRICTIONS DESCRIBED IN SECTION 28-144.

1 WHO IS SENTENCED PURSUANT TO SUBSECTION D OF THIS SECTION MAY APPLY TO THE
2 DEPARTMENT FOR A RESTRICTED DRIVER LICENSE THAT ALLOWS THE PERSON TO
3 OPERATE A MOTOR VEHICLE DURING THE PERIOD OF SUSPENSION SUBJECT TO THE
4 RESTRICTIONS DESCRIBED IN SECTION 28-144.

5 ~~F.~~ G. For the purposes of this section, "course of conduct" means
6 a series of acts committed during a single, continuous period of driving.

7 Sec. 4. Section 28-708, Arizona Revised Statutes, is amended to
8 read:

9 28-708. Racing on highways; violation; classification;
10 exception; definitions

11 A. A person shall not drive a vehicle or participate in any manner
12 in a race, speed competition or contest, drag race or acceleration
13 contest, test of physical endurance or exhibition of speed or acceleration
14 or for the purpose of making a speed record on a street or highway.

15 B. A person who violates this section is guilty of a class 1
16 misdemeanor. If a person is convicted of a second or subsequent violation
17 of this section within twenty-four months ~~of~~ AFTER a first conviction, the
18 person is guilty of a class 6 felony and is not eligible for probation,
19 pardon, suspension of sentence or release on any other basis until the
20 person has served not less than ten days in jail or prison.

21 C. A person who is convicted of a first violation of this section
22 shall pay a fine of not less than ~~two hundred fifty dollars~~ \$250 and may
23 be ordered by the court to perform community restitution.

24 D. A person who is convicted of a subsequent violation of this
25 section shall pay a fine of not less than ~~five hundred dollars~~ \$500 and
26 may be ordered by the court to perform community restitution.

27 E. On pronouncement of a jail sentence under this section and in
28 cases of extreme hardship, the court may provide in the sentence that if
29 the defendant is employed or attending school and can continue employment
30 or school the defendant may continue the employment or school for not more
31 than twelve hours per day nor more than five days per week, and the
32 defendant shall spend the remaining days or parts of days in jail until
33 the sentence is served. The court may allow the defendant to be out of
34 jail only long enough to complete the defendant's actual hours of
35 employment or school.

36 F. If a person is convicted of violating this section, the judge
37 may require the surrender to a police officer of any driver license of the
38 person and immediately forward the abstract of conviction to the
39 department. On a first conviction, the judge may order the suspension of
40 the driving privileges of the person for a period of not more than ninety
41 days. In the case of a first conviction and on receipt of the abstract of
42 conviction and order of the court, the department shall suspend the
43 driving privileges of the person for the period of time ordered by the
44 judge. In the case of a second or subsequent conviction for an offense
45 committed within a period of twenty-four months and on receipt of the

1 abstract of conviction, the department shall ~~revoke~~ SUSPEND the driving
2 privileges of the person FOR ONE YEAR.

3 G. The director may authorize in writing an organized and properly
4 controlled event to ~~utilize~~ USE a highway or part of a highway even though
5 it is prohibited by this section. The authorization shall specify the
6 time of the event, the highway or part of a highway to be ~~utilized~~ USED
7 and any special conditions the director may require for the particular
8 event.

9 H. AFTER COMPLETING NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS OF
10 THE SUSPENSION PERIOD REQUIRED BY SUBSECTION F OF THIS SECTION, A PERSON
11 WHOSE DRIVING PRIVILEGE IS SUSPENDED FOR A VIOLATION OF THIS SECTION AND
12 WHO IS SENTENCED PURSUANT TO SUBSECTION F OF THIS SECTION MAY APPLY TO THE
13 DEPARTMENT FOR A RESTRICTED DRIVER LICENSE THAT ALLOWS THE PERSON TO
14 OPERATE A MOTOR VEHICLE DURING THE PERIOD OF SUSPENSION SUBJECT TO THE
15 RESTRICTIONS DESCRIBED IN SECTION 28-144.

16 ~~H.~~ I. For the purposes of this section:

17 1. "Drag race" means either:

18 (a) The operation of two or more vehicles from a point side by side
19 at accelerating speeds in a competitive attempt to outdistance each other.

20 (b) The operation of one or more vehicles over a common selected
21 course and from the same point for the purpose of comparing the relative
22 speeds or power of acceleration of the vehicle or vehicles within a
23 certain distance or time limit.

24 2. "Racing" means the use of one or more vehicles in an attempt to
25 outgain or outdistance another vehicle or prevent another vehicle from
26 passing.

27 Sec. 5. Section 28-1385, Arizona Revised Statutes, is amended to
28 read:

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

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

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

41 2. The person submits to a TEST OF THE PERSON'S blood, ~~or~~ breath,
42 ~~alcohol test~~ URINE OR OTHER BODILY SUBSTANCE THAT IS permitted by section
43 28-1321 or any other law or a sample of blood is obtained pursuant to
44 section 28-1388 and the results are either not available or the results
45 indicate any of the following:

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

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

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

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

13 1. Information that adequately identifies the arrested person.

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

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

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

25 C. IF A BREATH TEST IS ADMINISTERED, A LAW ENFORCEMENT AGENCY SHALL
26 FORWARD THE CERTIFIED REPORT THAT IS REQUIRED BY SUBSECTION A OF THIS
27 SECTION TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE ARREST OCCURS. IF
28 A SAMPLE OF BLOOD, URINE OR OTHER BODILY SUBSTANCE IS OBTAINED, THE LAW
29 ENFORCEMENT AGENCY SHALL FORWARD THE CERTIFIED REPORT THAT IS REQUIRED BY
30 SUBSECTION A OF THIS SECTION TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER
31 THE DATE THE REPORT OF THE ANALYSIS IS PROVIDED TO THE LAW ENFORCEMENT
32 AGENCY. IF A REPORT IS NOT FORWARDED TO THE DEPARTMENT WITHIN THE TIME
33 LIMIT PRESCRIBED BY THIS SUBSECTION, THE REPORT IS INADMISSIBLE IN A
34 HEARING HELD PURSUANT TO THIS SECTION UNLESS THE VIOLATION LISTED IN
35 SUBSECTION A OF THIS SECTION RESULTED IN A DEATH OR SERIOUS PHYSICAL
36 INJURY. FOR THE PURPOSES OF THIS SUBSECTION "SERIOUS PHYSICAL INJURY" HAS
37 THE SAME MEANING PRESCRIBED IN SECTION 13-105.

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

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

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

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

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

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

10 6. Shall inform the person that the person's driving privilege,
11 license, permit, right to apply for a license or permit or nonresident
12 operating privilege may be issued or reinstated following the period of
13 suspension only if the person completes alcohol or other drug screening.

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

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

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

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

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

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

43 ~~G.~~ H. Notwithstanding subsections A, ~~through F~~ B, C, D, E, F AND G
44 of this section, the department shall suspend the driving privileges of
45 the person described in subsection A of this section for not less than

1 thirty consecutive days and shall restrict the driving privileges of the
2 person for not less than sixty consecutive additional days to travel
3 between the person's place of employment and residence and during
4 specified periods of time while at employment, to travel between the
5 person's place of residence and the person's secondary or postsecondary
6 school, according to the person's employment or educational schedule, to
7 travel between the person's place of residence and the office of the
8 person's probation officer for scheduled appointments or to travel between
9 the person's place of residence and a screening, education or treatment
10 facility for scheduled appointments if the person:

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

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

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

22 4. Provides satisfactory evidence to the department of the person's
23 completion of alcohol or other drug screening that is ordered by the
24 department. If the person does not complete alcohol or other drug
25 screening, the department may impose a ninety day suspension pursuant to
26 this section.

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

1 ~~J.~~ 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 later than when the department has made
5 its final decision. If the person is a resident without a license or
6 permit or has an expired license or permit, the department may allow the
7 person to apply for a restricted license or permit. If the department
8 determines the person is otherwise entitled to the restricted license or
9 permit, the department shall issue, but retain, the license or permit,
10 subject to this section. All hearings requested under this section shall
11 be conducted in the same manner and under the same conditions as provided
12 in section 28-3306.

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

15 1. Whether the officer had reasonable grounds to believe the person
16 was driving or was in actual physical control of a motor vehicle while
17 under the influence of intoxicating liquor or drugs.

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

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

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

26 (i) 0.08 or more.

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

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

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

33 5. Whether the test results were accurately evaluated.

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

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

1 or nonresident operating privilege following the period of suspension only
2 if the violator completes alcohol or other drug screening.

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

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

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

25 Sec. 6. Section 28-1387, Arizona Revised Statutes, is amended to
26 read:

27 28-1387. Prior convictions; alcohol or other drug screening,
28 education and treatment; license suspension;
29 supervised probation; civil liability; procedures

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

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

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

41 D. Unless the license of a person convicted under section 28-1381
42 or 28-1382 has been or is suspended pursuant to section 28-1321 or
43 28-1385, the department on receipt of the abstract of conviction of a
44 violation of section 28-1381 or 28-1382 shall suspend the license of the
45 affected person for not less than ninety consecutive days.

1 E. When the department receives notification that the person meets
2 the criteria provided in section 28-1385, subsection ~~G~~ H, the department
3 shall suspend the driving privileges of the person for not less than
4 thirty consecutive days and shall restrict the person's driving privileges
5 as described in section 28-144 for not less than sixty consecutive
6 additional days.

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

11 G. Any political subdivision processing or using the services of a
12 person ordered to perform community restitution pursuant to section
13 28-1381 or 28-1382 does not incur any civil liability to the person
14 ordered to perform community restitution as a result of these activities
15 unless the political subdivision or its agent or employee acts with gross
16 negligence.

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

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

24 Sec. 7. Section 28-1401, Arizona Revised Statutes, is amended to
25 read:

26 28-1401. Special ignition interlock restricted driver
27 licenses; application fee

28 A. A person whose class D or class G license has been suspended
29 pursuant to section 28-1385 or suspended or revoked for a first refusal
30 pursuant to section 28-1321, a second violation of section 28-1381 or
31 28-1382 or a first violation of section 28-1383, subsection A, paragraph 3
32 may apply to the department for a special ignition interlock restricted
33 driver license that allows a person to operate a motor vehicle during the
34 period of suspension or revocation subject to the restrictions described
35 in section 28-144 and the certified ignition interlock device requirements
36 prescribed in article 5 of this chapter if the person's privilege to
37 operate a motor vehicle has been suspended or revoked due to an alcohol
38 related offense pursuant to any of the following:

39 1. Section 28-1321, if the person meets the criteria of section
40 28-1321, subsection P.

41 2. Section 28-1381, if the person meets the criteria of section
42 28-1381, subsection O and the person presents evidence that is
43 satisfactory to the director and that shows that the person has completed
44 the requirements prescribed in section 28-1387, subsection B.

1 3. Section 28-1382, if the person meets the criteria of section
2 28-1382, subsection H and the person presents evidence that is
3 satisfactory to the director and that shows that the person has completed
4 the requirements prescribed in section 28-1387, subsection B.

5 4. Section 28-1383, if the person meets the criteria of section
6 28-1383, subsection L and the person presents evidence that is
7 satisfactory to the director and that shows that the person has completed
8 the requirements prescribed in section 28-1387, subsection B.

9 5. Section 28-1385, if the person meets the criteria of section
10 28-1385, subsection ~~G~~ H.

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

14 C. The department shall issue a special ignition interlock
15 restricted driver license during the period of a ~~court-ordered~~
16 **COURT-ORDERED** restriction pursuant to sections 28-3320 and 28-3322 subject
17 to the restrictions described in section 28-144 and the certified ignition
18 interlock requirements prescribed in article 5 of this chapter.

19 D. If the department issues a special ignition interlock restricted
20 driver license, the department shall not delete a suspension or revocation
21 from its records.

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

25 Sec. 8. Section 28-3304, Arizona Revised Statutes, is amended to
26 read:

27 28-3304. Mandatory revocation of license; definition

28 A. In addition to the grounds for mandatory revocation provided for
29 in chapters 3, 4 and 5 of this title, the department shall immediately
30 revoke the license of a driver on receipt of a record of the driver's
31 conviction of any of the following offenses if the conviction is final:

32 1. A homicide or aggravated assault resulting from the operation of
33 a motor vehicle.

34 2. A felony in the commission of which a motor vehicle is used.

35 3. Theft of a motor vehicle pursuant to section 13-1802.

36 4. Unlawful use of means of transportation pursuant to section
37 13-1803.

38 5. Theft of means of transportation pursuant to section 13-1814.

39 6. Drive by shooting pursuant to section 13-1209.

40 7. Failure to stop and render aid as required under the laws of
41 this state if a motor vehicle accident results in the death or personal
42 injury of another.

43 8. Perjury or the making of a false affidavit or statement under
44 oath to the department under this chapter or under any other law relating
45 to the ownership or operation of a motor vehicle.

1 ~~9. Conviction or forfeiture of bail not vacated on a second or~~
2 ~~subsequent charge of the following offenses that are committed within~~
3 ~~eighty-four months:~~

4 ~~(a) Reckless driving.~~

5 ~~(b) Racing on highways.~~

6 ~~(c) Any combination of a violation of section 28-1381 or 28-1382~~
7 ~~and reckless driving, or of a violation of section 28-1381 or 28-1382 and~~
8 ~~racing on highways, or of reckless driving and racing on highways, if they~~
9 ~~do not arise out of the same event.~~

10 ~~10.~~ 9. Conviction or forfeiture of bail not vacated on a second
11 charge of violating section 28-1381 or 28-1382 within eighty-four months.

12 ~~11.~~ 10. Conviction or forfeiture of bail not vacated on a third or
13 subsequent charge of violating section 28-1381 or 28-1382 within
14 eighty-four months.

15 ~~12.~~ 11. Conviction or forfeiture of bail not vacated on a charge of
16 violating section 28-1381 or 28-1382 and the driver has been convicted
17 within a period of eighty-four months of an offense in another
18 jurisdiction that if committed in this state would be a violation of
19 section 28-1381 or 28-1382.

20 B. In determining the starting date for the eighty-four month
21 period prescribed in subsection A, paragraphs 9, 10, ~~AND~~ 11 ~~and 12~~ of
22 this section, the department shall use the date of the commission of the
23 offense.

24 C. For the purposes of this section, "conviction" means a final
25 adjudication or judgment, including an order of a juvenile court finding
26 that a juvenile violated any provision of this title or committed a
27 delinquent act that if committed by an adult would constitute a criminal
28 offense.

29 Sec. 9. Section 28-3315, Arizona Revised Statutes, is amended to
30 read:

31 28-3315. Period of suspension, revocation or
32 disqualification; unlicensed drivers; definitions

33 A. The department shall not suspend, revoke or disqualify a driver
34 license or privilege to drive a motor vehicle on the public highways for
35 more than one year from the date of a conviction or judgment, if any,
36 against a person for which this chapter makes revocation, suspension or
37 disqualification mandatory or from the date the notice is sent pursuant to
38 section 28-3318 if no conviction was involved, except as permitted under
39 subsection E of this section and sections 28-3312, 28-3319 and 28-3320.

40 B. A person whose license or privilege to drive a motor vehicle on
41 the public highways has been revoked may apply for reinstatement of the
42 person's license as provided by law after the cause of the revocation is
43 removed or after expiration of the revocation period prescribed by law.
44 The department may reinstate the person's driver license after the

1 department reviews an applicant's driving record in this state or another
2 state or other sufficient evidence to determine that:

3 1. All withdrawal actions are complete.
4 2. The applicant has not been convicted of or found responsible for
5 any traffic violations within twelve months preceding application.
6 3. All other statutory requirements are satisfied.

7 C. The department shall not accept an application for reinstatement
8 of a driver license until after the twelve month period prescribed in
9 subsection B of this section has elapsed.

10 D. If the department reinstates a person's driver license or
11 driving privilege for a revocation that is related to alcohol or other
12 drugs, the department may accept an evaluation that was performed within
13 the previous twelve months from a physician, a psychologist, a physician
14 assistant, a registered nurse practitioner or a substance abuse counselor
15 indicating that, in the opinion of the physician, psychologist, physician
16 assistant, registered nurse practitioner or substance abuse counselor, the
17 condition does not affect or impair the person's ability to safely operate
18 a motor vehicle. For the purposes of reinstating a license or driving
19 privilege pursuant to this article, the department may rely on the opinion
20 of a physician, a psychologist, a physician assistant, a registered nurse
21 practitioner or a substance abuse counselor.

22 E. Notwithstanding subsections A and B of this section:

23 1. A person whose license or privilege to drive is revoked pursuant
24 to section 28-3304, subsection A, paragraph 1 or ~~11~~ 10 is not entitled to
25 have the person's license or privilege renewed or restored for three
26 years.

27 2. A person whose license or privilege to drive is revoked pursuant
28 to section 13-1209 is not entitled to have the person's license or
29 privilege renewed or restored for the period of time ordered by the court.

30 3. If a license, permit or privilege to drive is revoked pursuant
31 to section 28-661, subsection E the license, permit or privilege may not
32 be renewed or restored except as prescribed by section 28-661, subsections
33 E and F.

34 4. A person whose license, permit or privilege to drive is revoked
35 pursuant to section 28-661, subsection G is not entitled to have the
36 person's license, permit or privilege renewed or restored for three years.

37 F. If an unlicensed driver commits an offense for which a driver
38 license could be suspended, revoked or disqualified, the department shall
39 not accept the unlicensed driver's application for a driver license for a
40 period equal to the period of time that applies to a driver with a
41 license. If the offense is one for which a driver license could be
42 revoked, the department shall not accept the unlicensed driver's
43 application for a driver license unless ~~11~~ THE APPLICATION includes an
44 evaluation from a physician, psychologist, physician assistant, registered
45 nurse practitioner or substance abuse counselor on the habits and driving

1 ability of the person and ~~that~~ the evaluator is satisfied that it is safe
2 to grant the privilege of driving a motor vehicle on the public highways.

3 G. The expiration of a person's license during the period of time
4 it is under suspension, revocation or disqualification does not invalidate
5 or terminate the suspension, revocation or disqualification.

6 H. A person whose license or privilege to drive a motor vehicle on
7 the public highways has been suspended pursuant to section 28-3306,
8 subsection A, paragraph 5 or section 28-3314 may apply for a new license
9 as provided by law after the cause for suspension is removed or after
10 expiration of the suspension period prescribed by law if both of the
11 following conditions are met:

12 1. The department is satisfied, after reviewing the medical
13 condition and driving ability of the person, that it is safe to grant the
14 person the privilege of driving a motor vehicle on the public highways.

15 2. If the person has a medical condition related to alcohol or
16 other drugs, the department may accept an evaluation form from a
17 physician, a psychologist, a physician assistant, a registered nurse
18 practitioner or a substance abuse counselor indicating that, in the
19 opinion of the physician, psychologist, physician assistant, registered
20 nurse practitioner or substance abuse counselor, the condition does not
21 affect or impair the person's ability to operate a motor vehicle in a safe
22 manner.

23 I. For the purposes of this section:

24 1. "Physician" means a physician who is licensed pursuant to title
25 32, chapter 13, 17 or 29.

26 2. "Physician assistant" means a physician assistant who is
27 licensed pursuant to title 32, chapter 25.

28 3. "Psychologist" means a psychologist who is licensed pursuant to
29 title 32, chapter 19.1.

30 4. "Registered nurse practitioner" means a registered nurse
31 practitioner who is licensed pursuant to title 32, chapter 15.

32 5. "Substance abuse counselor" has the same meaning prescribed in
33 section 28-3005.