

PROPOSED AMENDMENT  
SENATE AMENDMENTS TO S.B. 1228  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 28-1381, Arizona Revised Statutes, is amended to  
3 read:

4 28-1381. Driving or actual physical control while under the  
5 influence; trial by jury; presumptions; admissible  
6 evidence; sentencing; classification

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

9 1. While under the influence of intoxicating liquor, any drug, a vapor  
10 releasing substance containing a toxic substance or any combination of  
11 liquor, drugs or vapor releasing substances if the person is impaired to the  
12 slightest degree.

13 2. If the person has an alcohol concentration of 0.08 or more within  
14 two hours of driving or being in actual physical control of the vehicle and  
15 the alcohol concentration results from alcohol consumed either before or  
16 while driving or being in actual physical control of the vehicle.

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

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

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

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

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

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

11           F. At the arraignment, the court shall inform the defendant that the  
12 defendant may request a trial by jury and that the request, if made, shall be  
13 granted.

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

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

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

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

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

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

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

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

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

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

18           5. Shall pay an additional assessment of five hundred dollars to be  
19 deposited by the state treasurer in the public safety equipment fund  
20 established by section 41-1723. This assessment is not subject to any  
21 surcharge. If the conviction occurred in the superior court or a justice  
22 court, the court shall transmit the assessed monies to the county treasurer.  
23 If the conviction occurred in a municipal court, the court shall transmit the  
24 assessed monies to the city treasurer. The city or county treasurer shall  
25 transmit the monies received to the state treasurer.

26           6. **IF THE VIOLATION INVOLVED INTOXICATING LIQUOR**, shall be required by  
27 the department, on report of the conviction, to equip any motor vehicle the  
28 person operates with a certified ignition interlock device pursuant to  
29 section 28-3319. In addition, the court may order the person to equip any  
30 motor vehicle the person operates with a certified ignition interlock device  
31 for more than twelve months beginning on the date of reinstatement of the  
32 person's driving privilege following a suspension or revocation or on the

1 date of the department's receipt of the report of conviction, whichever  
2 occurs later. The person who operates a motor vehicle with a certified  
3 ignition interlock device under this paragraph shall comply with article 5 of  
4 this chapter.

5 J. Notwithstanding subsection I, paragraph 1 of this section, at the  
6 time of sentencing the judge may suspend all but one day of the sentence if  
7 the person completes a court ordered alcohol or other drug screening,  
8 education or treatment program. If the person fails to complete the court  
9 ordered alcohol or other drug screening, education or treatment program and  
10 has not been placed on probation, the court shall issue an order to show  
11 cause to the defendant as to why the remaining jail sentence should not be  
12 served.

13 K. If within a period of eighty-four months a person is convicted of a  
14 second violation of this section or is convicted of a violation of this  
15 section and has previously been convicted of a violation of section 28-1382  
16 or 28-1383 or an act in another jurisdiction that if committed in this state  
17 would be a violation of this section or section 28-1382 or 28-1383, the  
18 person:

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

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

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

26 4. Shall have the person's driving privilege revoked for one year.  
27 The court shall report the conviction to the department. On receipt of the  
28 report, the department shall revoke the person's driving privilege and, **IF**  
29 **THE VIOLATION INVOLVED INTOXICATING LIQUOR**, shall require the person to equip  
30 any motor vehicle the person operates with a certified ignition interlock  
31 device pursuant to section 28-3319. In addition, the court may order the  
32 person to equip any motor vehicle the person operates with a certified

1 ignition interlock device for more than twelve months beginning on the date  
2 of reinstatement of the person's driving privilege following a suspension or  
3 revocation or on the date of the department's receipt of the report of  
4 conviction, whichever occurs later. The person who operates a motor vehicle  
5 with a certified ignition interlock device under this paragraph shall comply  
6 with article 5 of this chapter.

7 5. Shall pay an additional assessment of one thousand two hundred  
8 fifty dollars to be deposited by the state treasurer in the prison  
9 construction and operations fund established by section 41-1651. This  
10 assessment is not subject to any surcharge. If the conviction occurred in  
11 the superior court or a justice court, the court shall transmit the assessed  
12 monies to the county treasurer. If the conviction occurred in a municipal  
13 court, the court shall transmit the assessed monies to the city treasurer.  
14 The city or county treasurer shall transmit the monies received to the state  
15 treasurer.

16 6. Shall pay an additional assessment of one thousand two hundred  
17 fifty dollars to be deposited by the state treasurer in the public safety  
18 equipment fund established by section 41-1723. This assessment is not  
19 subject to any surcharge. If the conviction occurred in the superior court  
20 or a justice court, the court shall transmit the assessed monies to the  
21 county treasurer. If the conviction occurred in a municipal court, the court  
22 shall transmit the assessed monies to the city treasurer. The city or county  
23 treasurer shall transmit the monies received to the state treasurer.

24 L. Notwithstanding subsection K, paragraph 1 of this section, at the  
25 time of sentencing, the judge may suspend all but thirty days of the sentence  
26 if the person completes a court ordered alcohol or other drug screening,  
27 education or treatment program. If the person fails to complete the court  
28 ordered alcohol or other drug screening, education or treatment program and  
29 has not been placed on probation, the court shall issue an order to show  
30 cause as to why the remaining jail sentence should not be served.

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

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

7 O. After completing forty-five days of the revocation period  
8 prescribed by subsection K of this section, a person whose driving privilege  
9 is revoked for a violation of this section and who is sentenced pursuant to  
10 subsection K of this section is eligible for a special ignition interlock  
11 restricted driver license pursuant to section 28-1401.

12 P. THE COURT MAY ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF  
13 THIS SECTION THAT DOES NOT INVOLVE INTOXICATING LIQUOR TO EQUIP ANY MOTOR  
14 VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE  
15 PURSUANT TO SECTION 28-3319. ON REPORT OF THE CONVICTION AND CERTIFIED  
16 IGNITION INTERLOCK REQUIREMENT, THE DEPARTMENT SHALL REQUIRE THE PERSON TO  
17 EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION  
18 INTERLOCK DEVICE PURSUANT TO SECTION 28-3319. IN ADDITION, THE COURT MAY  
19 ORDER THE PERSON TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A  
20 CERTIFIED IGNITION INTERLOCK DEVICE FOR MORE THAN TWELVE MONTHS BEGINNING ON  
21 THE DATE OF REINSTATEMENT OF THE PERSON'S DRIVING PRIVILEGE FOLLOWING A  
22 SUSPENSION OR REVOCATION OR ON THE DATE OF THE DEPARTMENT'S RECEIPT OF THE  
23 REPORT OF CONVICTION, WHICHEVER OCCURS LATER. THE PERSON WHO OPERATES A  
24 MOTOR VEHICLE WITH A CERTIFIED IGNITION INTERLOCK DEVICE UNDER THIS PARAGRAPH  
25 SHALL COMPLY WITH ARTICLE 5 OF THIS CHAPTER.

26 Sec. 2. Section 28-1383, Arizona Revised Statutes, is amended to read:

27 28-1383. Aggravated driving or actual physical control while  
28 under the influence; violation; classification;  
29 definition

30 A. A person is guilty of aggravated driving or actual physical control  
31 while under the influence of intoxicating liquor or drugs if the person does  
32 any of the following:

1           1. Commits a violation of section 28-1381, section 28-1382 or this  
2 section while the person's driver license or privilege to drive is suspended,  
3 canceled, revoked or refused or while a restriction is placed on the person's  
4 driver license or privilege to drive as a result of violating section 28-1381  
5 or 28-1382 or under section 28-1385.

6           2. Within a period of eighty-four months commits a third or subsequent  
7 violation of section 28-1381, section 28-1382 or this section or is convicted  
8 of a violation of section 28-1381, section 28-1382 or this section and has  
9 previously been convicted of any combination of convictions of section  
10 28-1381, section 28-1382 or this section or acts in another jurisdiction that  
11 if committed in this state would be a violation of section 28-1381, section  
12 28-1382 or this section.

13           3. While a person under fifteen years of age is in the vehicle,  
14 commits a violation of either:

15           (a) Section 28-1381.

16           (b) Section 28-1382.

17           4. While the person is ordered by the court or required pursuant to  
18 section 28-3319 by the department to equip any motor vehicle the person  
19 operates with a certified ignition interlock device, commits a violation of  
20 section 28-1381, section 28-1382 or this section.

21           B. The dates of the commission of the offenses are the determining  
22 factor in applying the eighty-four month provision provided in subsection A,  
23 paragraph 2 of this section regardless of the sequence in which the offenses  
24 were committed. For the purposes of this section, a third or subsequent  
25 violation for which a conviction occurs does not include a conviction for an  
26 offense arising out of the same series of acts. The time that a probationer  
27 is found to be on absconder status or the time that a person is incarcerated  
28 in any state, federal, county or city jail or correctional facility is  
29 excluded when determining the eighty-four month period provided in subsection  
30 A, paragraph 2 and subsection E of this section.

1           C. The notice to a person of the suspension, cancellation, revocation  
2 or refusal of a driver license or privilege to drive is effective as provided  
3 in section 28-3318 or pursuant to the laws of the state issuing the license.

4           D. A person is not eligible for probation, pardon, commutation or  
5 suspension of sentence or release on any other basis until the person has  
6 served not less than four months in prison if the person is convicted under  
7 either of the following:

8           1. Subsection A, paragraph 1 of this section.

9           2. Subsection A, paragraph 2 of this section and within an eighty-four  
10 month period has been convicted of two prior violations of section 28-1381,  
11 section 28-1382 or this section, or any combination of those sections, or  
12 acts in another jurisdiction that if committed in this state would be a  
13 violation of section 28-1381, section 28-1382 or this section.

14           E. A person who is convicted under subsection A, paragraph 2 of this  
15 section and who within an eighty-four month period has been convicted of  
16 three or more prior violations of section 28-1381, section 28-1382 or this  
17 section, or any combination of those sections, or acts in another  
18 jurisdiction that if committed in this state would be a violation of section  
19 28-1381, section 28-1382 or this section is not eligible for probation,  
20 pardon, commutation or suspension of sentence or release on any other basis  
21 until the person has served not less than eight months in prison.

22           F. A person who is convicted under subsection A, paragraph 3,  
23 subdivision (a) of this section shall serve at least the minimum term of  
24 incarceration required pursuant to section 28-1381.

25           G. A person who is convicted under subsection A, paragraph 3,  
26 subdivision (b) of this section shall serve at least the minimum term of  
27 incarceration required pursuant to section 28-1382.

28           H. A person who is convicted of a violation of this section shall  
29 attend and complete alcohol or other drug screening, education or treatment  
30 from an approved facility. If the person fails to comply with this  
31 subsection and is placed on probation, in addition to the provisions of

1 section 13-901 the court may order that the person be incarcerated as a term  
2 of probation as follows:

3 1. For a person sentenced pursuant to subsection D of this section,  
4 for an individual period of not more than four months and a total period of  
5 not more than one year.

6 2. For a person sentenced pursuant to subsection E of this section,  
7 for an individual period of not more than eight months and a total period of  
8 not more than two years.

9 I. The time that a person spends in custody pursuant to subsection H  
10 of this section shall not be counted towards the sentence imposed if the  
11 person's probation is revoked and the person is sentenced to prison after  
12 revocation of probation.

13 J. On a conviction for a violation of this section, the court:

14 1. Shall report the conviction to the department. On receipt of the  
15 report, the department shall revoke the driving privilege of the person. The  
16 department shall not issue the person a new driver license within one year of  
17 the date of the conviction and, **IF THE VIOLATION INVOLVED INTOXICATING**  
18 **LIQUOR**, shall require the person to equip any motor vehicle the person  
19 operates with a certified ignition interlock device pursuant to section  
20 28-3319. In addition, the court may order the person to equip any motor  
21 vehicle the person operates with a certified ignition interlock device for  
22 more than twenty-four months beginning on the date of reinstatement of the  
23 person's driving privilege following a suspension or revocation or on the  
24 date of the department's receipt of the report of conviction, whichever  
25 occurs later. The person who operates a motor vehicle with a certified  
26 ignition interlock device under this paragraph shall comply with article 5 of  
27 this chapter.

28 2. In addition to any other penalty prescribed by law, shall order the  
29 person to pay an additional assessment of two hundred fifty dollars. If the  
30 conviction occurred in the superior court or a justice court, the court shall  
31 transmit the monies received pursuant to this paragraph to the county  
32 treasurer. If the conviction occurred in a municipal court, the court shall

1 transmit the monies received pursuant to this paragraph to the city  
2 treasurer. The city or county treasurer shall transmit the monies received  
3 to the state treasurer. The state treasurer shall deposit the monies  
4 received in the driving under the influence abatement fund established by  
5 section 28-1304. Any fine imposed for a violation of this section and any  
6 assessments, restitution and incarceration costs shall be paid before the  
7 assessment prescribed in this paragraph.

8 3. Shall order the person to pay a fine of not less than seven hundred  
9 fifty dollars.

10 4. In addition to any other penalty prescribed by law, shall order the  
11 person to pay an additional assessment of one thousand five hundred dollars  
12 to be deposited by the state treasurer in the prison construction and  
13 operations fund established by section 41-1651. This assessment is not  
14 subject to any surcharge. If the conviction occurred in the superior court  
15 or a justice court, the court shall transmit the assessed monies to the  
16 county treasurer. If the conviction occurred in a municipal court, the court  
17 shall transmit the assessed monies to the city treasurer. The city or county  
18 treasurer shall transmit the monies received to the state treasurer.

19 5. In addition to any other penalty prescribed by law, shall order the  
20 person to pay an additional assessment of one thousand five hundred dollars  
21 to be deposited by the state treasurer in the public safety equipment fund  
22 established by section 41-1723. This assessment is not subject to any  
23 surcharge. If the conviction occurred in the superior court or a justice  
24 court, the court shall transmit the assessed monies to the county treasurer.  
25 If the conviction occurred in a municipal court, the court shall transmit the  
26 assessed monies to the city treasurer. The city or county treasurer shall  
27 transmit the monies received to the state treasurer.

28 K. After completing the period of suspension required by section  
29 28-1385, a person whose driving privilege is revoked for a violation of  
30 subsection A, paragraph 3 of this section may apply to the department for a  
31 special ignition interlock restricted driver license pursuant to section  
32 28-1401.

1           L. THE COURT MAY ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF  
2 THIS SECTION THAT DOES NOT INVOLVE INTOXICATING LIQUOR TO EQUIP ANY MOTOR  
3 VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE  
4 PURSUANT TO SECTION 28-3319. ON REPORT OF THE CONVICTION AND CERTIFIED  
5 IGNITION INTERLOCK DEVICE REQUIREMENT, THE DEPARTMENT SHALL REQUIRE THE  
6 PERSON TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED  
7 IGNITION INTERLOCK DEVICE PURSUANT TO SECTION 28-3319. IN ADDITION, THE  
8 COURT MAY ORDER THE PERSON TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES  
9 WITH A CERTIFIED IGNITION INTERLOCK DEVICE FOR MORE THAN TWELVE MONTHS  
10 BEGINNING ON THE DATE OF REINSTATEMENT OF THE PERSON'S DRIVING PRIVILEGE  
11 FOLLOWING A SUSPENSION OR REVOCATION OR ON THE DATE OF THE DEPARTMENT'S  
12 RECEIPT OF THE REPORT OF CONVICTION, WHICHEVER OCCURS LATER. THE PERSON WHO  
13 OPERATES A MOTOR VEHICLE WITH A CERTIFIED IGNITION INTERLOCK DEVICE UNDER  
14 THIS PARAGRAPH SHALL COMPLY WITH ARTICLE 5 OF THIS CHAPTER.

15           ~~L.~~ M. Aggravated driving or actual physical control while under the  
16 influence of intoxicating liquor or drugs committed under:

17           1. Subsection A, paragraph 1, 2 or 4 of this section is a class 4  
18 felony.

19           2. Subsection A, paragraph 3 of this section is a class 6 felony.

20           ~~M.~~ N. For the purposes of this section, "suspension, cancellation,  
21 revocation or refusal" means any suspension, cancellation, revocation or  
22 refusal.

23           Sec. 3. Section 28-1559, Arizona Revised Statutes, is amended to read:

24           28-1559. Traffic case records; abstract of record; reports

25           A. Each magistrate, judge or hearing officer of a court shall:

26           1. Keep or cause to be kept a record of each traffic complaint or  
27 other legal form of traffic charge deposited with or presented to the court  
28 or its traffic violations bureau.

29           2. Keep a record of each official action by the court or its traffic  
30 violations bureau in reference to each traffic complaint or other legal form  
31 of traffic charge deposited with or presented to the court or its traffic  
32 violations bureau, including but not limited to a record of:

1 (a) Each conviction, forfeiture of bail or deposit, judgment of  
2 acquittal or civil adjudication.

3 (b) The amount of the civil penalty, fine or forfeiture resulting from  
4 each traffic complaint deposited with or presented to the court or traffic  
5 violations bureau.

6 B. Within ten days after the conviction, judgment or forfeiture of  
7 bail or deposit of a person on a charge of violating chapter 3 or 4 of this  
8 title or this chapter or any other law regulating the operation of vehicles  
9 on highways, each magistrate of the court or clerk of the court of record in  
10 which the conviction or judgment was had or bail or deposit was forfeited  
11 shall prepare and immediately forward to the department an abstract of the  
12 record of the court covering the case in which the person either:

- 13 1. Was convicted.
- 14 2. Was adjudicated to have committed a civil traffic violation.
- 15 3. Forfeited bail or deposit.

16 C. The person required to prepare the abstract shall certify that it  
17 is true and correct.

18 D. A report is not required for a conviction or civil adjudication  
19 involving the illegal parking or standing of a vehicle.

20 E. The abstract shall be made on a form furnished or in a manner  
21 prescribed by the department and shall include:

- 22 1. The name and address of the party charged.
- 23 2. The number, if any, of the driver license of the party charged.
- 24 3. The registration number of the vehicle involved.
- 25 4. The nature of the offense or civil traffic violation.
- 26 5. The date of the hearing, the plea, the judgment or whether bail or  
27 deposit was forfeited.
- 28 6. The amount of the fine, civil penalty or forfeiture.

29 F. Each court of record shall also forward a like report to the  
30 department on the conviction of a person of homicide or aggravated assault  
31 resulting from the operation of a motor vehicle or any other felony in the  
32 commission of which a motor vehicle was used. To facilitate the preparation

1 of the report, the sentencing minute entry that is issued by the court shall  
2 indicate if the person was convicted of an offense that required the  
3 mandatory revocation of a driver license pursuant to section 28-3304,  
4 subsection A, paragraph 1, 2, 3, 4, ~~OR 5 or 6~~.

5 G. The department shall keep all abstracts received under this section  
6 for inspection as required by law.

7 H. Each judge, referee, hearing officer, probation officer or other  
8 person responsible for the disposition of cases involving traffic offenses or  
9 civil violations committed by persons under eighteen years of age shall:

10 1. Keep a full record of each case in which the person is charged with  
11 a violation of chapter 3 or 4 of this title or this chapter or any other law  
12 regulating the operation of vehicles on highways.

13 2. Report the offense or civil violation to the department at its  
14 office in Phoenix not more than thirty days after the date on which it was  
15 committed, except that a report is not required for parking violations or if  
16 it is found that the offense or civil violation was not committed.

17 I. The report required by subsection H of this section shall:

18 1. Be made on a form furnished or in a manner prescribed by the  
19 department.

20 2. Contain:

21 (a) All necessary information as to the identity of the offender.

22 (b) The citing or arresting agency.

23 (c) The date and nature of the offense or civil violation.

24 (d) The date of the hearing, the plea, the judgment or whether bail or  
25 deposit was forfeited.

26 (e) The amount of the fine, civil penalty or forfeiture.

27 J. Failure, refusal or neglect of a judicial officer to comply with  
28 this section is misconduct in office and grounds for removal from office.

29 Sec. 4. Section 28-3304, Arizona Revised Statutes, is amended to read:  
30 28-3304. Mandatory revocation of license; definition

31 A. In addition to the grounds for mandatory revocation provided for in  
32 chapters 3, 4 and 5 of this title, the department shall immediately revoke

1 the license of a driver on receipt of a record of the driver's conviction of  
2 any of the following offenses if the conviction is final:

3 1. A homicide or aggravated assault resulting from the operation of a  
4 motor vehicle.

5 ~~2. Driving a motor vehicle while under the influence of a drug as~~  
6 ~~defined in section 13-3401 or in violation of section 28-1381, subsection A,~~  
7 ~~paragraph 3.~~

8 ~~3.~~ 2. A felony in the commission of which a motor vehicle is used.

9 ~~4.~~ 3. Theft of a motor vehicle pursuant to section 13-1802.

10 ~~5.~~ 4. Unlawful use of means of transportation pursuant to section  
11 13-1803.

12 ~~6.~~ 5. Theft of means of transportation pursuant to section 13-1814.

13 ~~7.~~ 6. Drive by shooting pursuant to section 13-1209.

14 ~~8.~~ 7. Failure to stop and render aid as required under the laws of  
15 this state if a motor vehicle accident results in the death or personal  
16 injury of another.

17 ~~9.~~ 8. Perjury or the making of a false affidavit or statement under  
18 oath to the department under this chapter or under any other law relating to  
19 the ownership or operation of a motor vehicle.

20 ~~10.~~ 9. Conviction or forfeiture of bail not vacated on a second or  
21 subsequent charge of the following offenses that are committed within  
22 eighty-four months:

23 (a) Reckless driving.

24 (b) Racing on highways.

25 (c) Any combination of a violation of section 28-1381 or 28-1382 and  
26 reckless driving, of a violation of section 28-1381 or 28-1382 and racing on  
27 highways, or of reckless driving and racing on highways, if they do not arise  
28 out of the same event.

29 ~~11.~~ 10. Conviction or forfeiture of bail not vacated on a second  
30 charge of violating section 28-1381 or 28-1382 within eighty-four months.

1           ~~12.~~ 11. Conviction or forfeiture of bail not vacated on a third or  
2 subsequent charge of violating section 28-1381 or 28-1382 within eighty-four  
3 months.

4           ~~13.~~ 12. Conviction or forfeiture of bail not vacated on a charge of  
5 violating section 28-1381 or 28-1382 and the driver has been convicted within  
6 a period of eighty-four months of an offense in another jurisdiction that if  
7 committed in this state would be a violation of section 28-1381 or 28-1382.

8           B. In determining the starting date for the eighty-four month period  
9 prescribed in subsection A, paragraphs 9, 10, ~~through 13~~ 11 AND 12 of this  
10 section, the department shall use the date of the commission of the offense.

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

15           Sec. 5. Section 28-3315, Arizona Revised Statutes, is amended to read:

16           28-3315. Period of suspension, revocation or disqualification:  
17                                   unlicensed drivers

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

25           B. A person whose license or privilege to drive a motor vehicle on the  
26 public highways has been revoked may apply for a new license as provided by  
27 law after the cause of the revocation is removed or after expiration of the  
28 revocation period prescribed by law. After the department investigates an  
29 applicant's driving record in this state or another state by examining  
30 department records or other sufficient evidence to determine that all  
31 withdrawal actions are complete, that the applicant has not committed any  
32 traffic violations within twelve months preceding application and that all

1 other statutory requirements are satisfied, the department may issue a new  
2 license.

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

6 D. If the revocation is related to alcohol or other drugs, the person  
7 shall provide the department with a current evaluation from a physician  
8 licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed  
9 pursuant to title 32, chapter 19.1 or a substance abuse counselor as defined  
10 in section 28-3005 indicating that, in the opinion of the physician,  
11 psychologist or counselor, the condition does not affect or impair the  
12 person's ability to safely operate a motor vehicle. For the purposes of  
13 reinstating a license or driving privilege pursuant to this article, the  
14 department may rely on the opinion of a physician licensed pursuant to title  
15 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32,  
16 chapter 19.1 or a substance abuse counselor as defined in section 28-3005.

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

18 1. A person whose license or privilege to drive is revoked pursuant to  
19 section 28-3304, subsection A, paragraph 1 or ~~12~~ 11 is not entitled to have  
20 the person's license or privilege renewed or restored for three years.

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

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

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

31 F. If an unlicensed driver commits an offense for which a driver  
32 license could be suspended, revoked or disqualified, the department shall not

1 accept the unlicensed driver's application for a driver license for a period  
2 equal to the period of time that applies to a driver with a license. If the  
3 offense is one for which a driver license could be revoked, the department  
4 shall not accept the unlicensed driver's application for a driver license  
5 unless it investigates the character, habits and driving ability of the  
6 person and is satisfied that it is safe to grant the privilege of driving a  
7 motor vehicle on the public highways.

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

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

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

20 2. If the person has a medical condition related to alcohol or other  
21 drugs, the person provides the department with a current evaluation form from  
22 a physician licensed pursuant to title 32, chapter 13, 17 or 29, a  
23 psychologist licensed pursuant to title 32, chapter 19.1 or a substance abuse  
24 counselor as defined in section 28-3005 indicating that, in the opinion of  
25 the physician, psychologist or counselor, the condition does not affect or  
26 impair the person's ability to operate a motor vehicle in a safe manner.

27 Sec. 6. Section 28-3319, Arizona Revised Statutes, is amended to read:

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

31 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320  
32 or 28-3322, the license of a driver or the driving privilege of a nonresident

1 is suspended or revoked, the department shall not terminate the suspension or  
2 revocation or issue a special ignition interlock restricted driver license,  
3 if applicable, pursuant to chapter 4, article 3.1 of this title until the  
4 person provides proof of financial responsibility pursuant to chapter 9,  
5 article 3 of this title.

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

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

16 1. Terminate the suspension or issue a special ignition interlock  
17 restricted driver license, if applicable, pursuant to chapter 4, article 3.1  
18 of this title until the person provides proof from the treatment facility  
19 that the person has completed or is participating satisfactorily in alcohol  
20 or other drug screening, education or treatment.

21 2. Issue a new license or a special ignition interlock restricted  
22 driver license, if applicable, pursuant to chapter 4, article 3.1 of this  
23 title to operate a motor vehicle after the revocation until the person  
24 provides proof from the facility that the person has completed the court  
25 ordered program.

26 D. ~~Except as provided in subsection G of this section,~~ On receipt of a  
27 report of conviction from a court **FOR A VIOLATION THAT INVOLVED INTOXICATING**  
28 **LIQUOR OR THAT SPECIFICALLY REQUIRES THE INSTALLATION OF A CERTIFIED IGNITION**  
29 **INTERLOCK DEVICE**, the department shall require any motor vehicle the  
30 convicted person operates to be equipped with a functioning certified  
31 ignition interlock device and the convicted person to meet the requirements  
32 prescribed in section 28-1461 as follows:

1           1. For twelve months if:

2           (a) Except as provided in subsection ~~H~~ G of this section, the person  
3 is convicted of a violation of section 28-1381, section 28-1382,  
4 subsection A, paragraph 1 or section 28-1383, subsection A, paragraph 3,  
5 subdivision (a).

6           (b) The department determines that within a period of eighty-four  
7 months the person is convicted of a second or subsequent violation of section  
8 28-1381 or section 28-1382, subsection A, paragraph 1 with a prior conviction  
9 of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another  
10 jurisdiction that if committed in this state would be a violation of section  
11 28-1381, 28-1382 or 28-1383.

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

14           3. For twenty-four months if:

15           (a) The person is convicted of a violation of section 28-1382,  
16 subsection A, paragraph 2 and the department determines that within a period  
17 of eighty-four months the person has a prior conviction of a violation of  
18 section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if  
19 committed in this state would be a violation of section 28-1381, 28-1382 or  
20 28-1383.

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

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

27           F. A person who is required to equip a motor vehicle with a certified  
28 ignition interlock device pursuant to this section shall comply with chapter  
29 4, article 5 of this title.

30           ~~G. The department shall remove the requirement that the person~~  
31 ~~maintain a functioning certified ignition interlock device if the person is~~  
32 ~~only convicted of a violation of section 28-1381, subsection A, paragraph 3~~

1 ~~and completes alcohol or other drug screening required pursuant to section~~  
2 ~~28-1387 and the court determines that no alcohol education or treatment is~~  
3 ~~required.~~

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

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

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

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

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

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

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

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

30 ~~J.~~ I. For the purposes of this section, "certified ignition interlock  
31 device" has the same meaning prescribed in section 28-1301.

Senate Amendments to S.B. 1228

- 1                   Sec. 7. Effective date
- 2                   This act is effective from and after December 31, 2016."
- 3 Amend title to conform

BOB WORSLEY

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02/02/2016  
03:37 PM  
C: SP