

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1113
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 4-226, Arizona Revised Statutes, is amended to
3 read:

4 4-226. Exemptions

5 The provisions of this title do not apply to:

6 1. Drugstores selling spirituous liquors only upon prescription.
7 2. Any confectionery candy containing less than five per cent by
8 weight of alcohol.

9 3. Ethyl alcohol intended for use or used for the following purposes:

10 (a) Scientific, chemical, mechanical, industrial and medicinal
11 purposes.

12 (b) Use by those authorized to procure spirituous liquor or ethyl
13 alcohol tax-free, as provided by the acts of Congress and regulations
14 promulgated thereunder.

15 (c) In the manufacture of denatured alcohol produced and used as
16 provided by the acts of Congress and regulations promulgated thereunder.

17 (d) In the manufacture of patented, patent, proprietary, medicinal,
18 pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and
19 industrial preparations or products, unfit and not used for beverage
20 purposes.

21 (e) In the manufacture of flavoring extracts and syrups unfit for
22 beverage purposes.

23 4. The purchase, storage, distribution, service or consumption of wine
24 in connection with the bona fide practice of a religious belief or as an
25 integral part of a religious exercise by a church recognized by the United
26 States internal revenue service under section 501(c)(3) of the internal
27 revenue code and in a manner not dangerous to public health or safety. This
28 exemption does not apply to any alleged violation of section 4-244, paragraph
29 9, ~~33, 34 or 40~~ 34, 35 OR 41.

30 Sec. 2. Title 4, chapter 2, article 2, Arizona Revised Statutes, is
31 amended by adding section 4-229, to read:

32 4-229. Licenses; handguns; posting of notice

33 A. A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 MAY CARRY
34 A CONCEALED HANDGUN ON THE PREMISES OF A LICENSEE WHO IS AN ON-SITE RETAILER
35 THAT OFFERS FOR SALE FOOD FOR ON-SITE CONSUMPTION PREPARED IN A KITCHEN
36 LOCATED ON THE PREMISES UNLESS THE LICENSEE POSTS A SIGN AT THE PRIMARY
37 ENTRANCE TO THE LICENSED PREMISES OR AT THE PRIMARY ENTRANCES OF THE LICENSED
38 PREMISES THAT PROHIBITS THE POSSESSION OF WEAPONS ON THE LICENSED PREMISES.
39 THE SIGN OR SIGNS SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

40 1. BE POSTED IN A CONSPICUOUS LOCATION.

41 2. BE AT LEAST FOUR INCHES HIGH BY SIX INCHES WIDE.

42 3. CONTAIN A PICTOGRAM SELECTED BY THE DEPARTMENT THAT SHOWS A FIREARM
43 WITHIN A RED CIRCLE AND A DIAGONAL RED LINE ACROSS THE FIREARM.

1 4. CONTAIN THE WORDS, "NO FIREARMS ALLOWED PURSUANT TO A.R.S. SECTION
2 4-229".

3 B. THIS SECTION DOES NOT PROHIBIT A PERSON WHO POSSESSES A HANDGUN
4 FROM ENTERING THE LICENSED PREMISES FOR A LIMITED TIME FOR THE SPECIFIC
5 PURPOSE OF EITHER:

6 1. SEEKING EMERGENCY AID.

7 2. DETERMINING WHETHER A SIGN HAS BEEN POSTED PURSUANT TO SUBSECTION A
8 OF THIS SECTION.

9 Sec. 3. Section 4-244, Arizona Revised Statutes, is amended to read:

10 4-244. Unlawful acts

11 It is unlawful:

12 1. For a person to buy for resale, sell or deal in spirituous liquors
13 in this state without first having procured a license duly issued by the
14 board.

15 2. For a person to sell or deal in alcohol for beverage purposes
16 without first complying with this title.

17 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
18 dispose of or give spirituous liquor to any person other than a licensee
19 except in sampling wares as may be necessary in the ordinary course of
20 business, except in donating spirituous liquor to a nonprofit organization
21 which has obtained a special event license for the purpose of charitable fund
22 raising activities or except in donating spirituous liquor with a cost to the
23 distiller, brewer or wholesaler of up to one hundred dollars in a calendar
24 year to an organization that is exempt from federal income taxes under
25 section 501(c) of the internal revenue code and not licensed under this
26 title.

27 4. For a distiller, vintner or brewer to require a wholesaler to offer
28 or grant a discount to a retailer, unless the discount has also been offered
29 and granted to the wholesaler by the distiller, vintner or brewer.

30 5. For a distiller, vintner or brewer to use a vehicle for trucking or
31 transportation of spirituous liquors unless there is affixed to both sides of
32 the vehicle a sign showing the name and address of the licensee and the type
33 and number of the person's license in letters not less than three and
34 one-half inches in height.

35 6. For a person to take or solicit orders for spirituous liquors
36 unless the person is a salesman or solicitor of a licensed wholesaler, a
37 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
38 a registered retail agent.

39 7. For any retail licensee to purchase spirituous liquors from any
40 person other than a solicitor or salesman of a wholesaler licensed in this
41 state.

42 8. For a retailer to acquire an interest in property owned, occupied
43 or used by a wholesaler in his business, or in a license with respect to the
44 premises of the wholesaler.

45 9. Except as provided in paragraphs 10 and 11 of this section, for a
46 licensee or other person to sell, furnish, dispose of or give, or cause to be
47 sold, furnished, disposed of or given, to a person under the legal drinking
48 age or for a person under the legal drinking age to buy, receive, have in the

1 person's possession or consume spirituous liquor. This paragraph shall not
2 prohibit the employment by an off-sale retailer of persons who are at least
3 sixteen years of age to check out, if supervised by a person on the premises
4 who is at least nineteen years of age, package or carry merchandise,
5 including spirituous liquor, in unbroken packages, for the convenience of the
6 customer of the employer, if the employer sells primarily merchandise other
7 than spirituous liquor.

8 10. For a licensee to employ a person under ~~the age of~~ nineteen years
9 **OF AGE** to manufacture, sell or dispose of spirituous liquors. This paragraph
10 shall not prohibit the employment by an off-sale retailer of persons who are
11 at least sixteen years of age to check out, if supervised by a person on the
12 premises who is at least nineteen years of age, package or carry merchandise,
13 including spirituous liquor, in unbroken packages, for the convenience of the
14 customer of the employer, if the employer sells primarily merchandise other
15 than spirituous liquor.

16 11. For an on-sale retailer to employ a person under ~~the age of~~
17 nineteen years **OF AGE** in any capacity connected with the handling of
18 spirituous liquors. This paragraph does not prohibit the employment by an
19 on-sale retailer of a person under ~~the age of~~ nineteen years **OF AGE** who
20 cleans up the tables on the premises for reuse, removes dirty dishes, keeps a
21 ready supply of needed items and helps clean up the premises.

22 12. For a licensee, when engaged in waiting on or serving customers, to
23 consume spirituous liquor or for a licensee or on-duty employee to be on or
24 about the licensed premises while in an intoxicated or disorderly condition.

25 13. For an employee of a retail licensee, during that employee's
26 working hours or in connection with such employment, to give to or purchase
27 for any other person, accept a gift of, purchase for himself or consume
28 spirituous liquor, except that:

29 (a) An employee of a licensee, during that employee's working hours or
30 in connection with the employment, while the employee is not engaged in
31 waiting on or serving customers, may give spirituous liquor to or purchase
32 spirituous liquor for any other person.

33 (b) An employee of an on-sale retail licensee, during that employee's
34 working hours or in connection with the employment, while the employee is not
35 engaged in waiting on or serving customers, may taste samples of beer or wine
36 not to exceed four ounces per day or distilled spirits not to exceed two
37 ounces per day provided by an employee of a wholesaler or distributor who is
38 present at the time of the sampling.

39 (c) An employee of an on-sale retail licensee, under the supervision
40 of a manager as part of the employee's training and education, while not
41 engaged in waiting on or serving customers may taste samples of distilled
42 spirits not to exceed two ounces per educational session or beer or wine not
43 to exceed four ounces per educational session, and provided that a licensee
44 shall not have more than two educational sessions in any thirty day period.

45 (d) An unpaid volunteer who is a bona fide member of a club and who is
46 not engaged in waiting on or serving spirituous liquor to customers may
47 purchase for himself and consume spirituous liquor while participating in a
48 scheduled event at the club. An unpaid participant in a food competition may

1 purchase for himself and consume spirituous liquor while participating in the
2 food competition.

3 (e) An unpaid volunteer of a special event licensee under section
4 4-203.02 may purchase and consume spirituous liquor while not engaged in
5 waiting on or serving spirituous liquor to customers at the special event.
6 This subdivision does not apply to an unpaid volunteer whose responsibilities
7 include verification of a person's legal drinking age, security or the
8 operation of any vehicle or heavy machinery.

9 14. For a licensee or other person to serve, sell or furnish spirituous
10 liquor to a disorderly or obviously intoxicated person, or for a licensee or
11 employee of the licensee to allow or permit a disorderly or obviously
12 intoxicated person to come into or remain on or about the premises, except
13 that a licensee or an employee of the licensee may allow an obviously
14 intoxicated person to remain on the premises for a period of time of not to
15 exceed thirty minutes after the state of obvious intoxication is known or
16 should be known to the licensee in order that a nonintoxicated person may
17 transport the obviously intoxicated person from the premises. For the
18 purposes of this section, "obviously intoxicated" means inebriated to the
19 extent that a person's physical faculties are substantially impaired and the
20 impairment is shown by significantly uncoordinated physical action or
21 significant physical dysfunction that would have been obvious to a reasonable
22 person.

23 15. For an on-sale or off-sale retailer or an employee of such retailer
24 to sell, dispose of, deliver or give spirituous liquor to a person between
25 the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and
26 10:00 a.m. on Sundays.

27 16. For a licensee or employee to knowingly permit any person on or
28 about the licensed premises to give or furnish any spirituous liquor to any
29 person under ~~the age of~~ twenty-one YEARS OF AGE or knowingly permit any
30 person under ~~the age of~~ twenty-one YEARS OF AGE to have in the person's
31 possession spirituous liquor on the licensed premises.

32 17. For an on-sale retailer or an employee of such retailer to allow a
33 person to consume or possess spirituous liquors on the premises between the
34 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m. on
35 Sundays.

36 18. For an on-sale retailer to permit an employee or for an employee to
37 solicit or encourage others, directly or indirectly, to buy the employee
38 drinks or anything of value in the licensed premises during the employee's
39 working hours. No on-sale retailer shall serve employees or allow a patron
40 of the establishment to give spirituous liquor to, purchase liquor for or
41 drink liquor with any employee during the employee's working hours.

42 19. For an off-sale retailer or employee to sell spirituous liquor
43 except in the original unbroken container, to permit spirituous liquor to be
44 consumed on the premises or to knowingly permit spirituous liquor to be
45 consumed on adjacent property under the licensee's exclusive control.

46 20. For a person to consume spirituous liquor in a public place,
47 thoroughfare or gathering. The license of a licensee permitting a violation
48 of this paragraph on the premises shall be subject to revocation. This

1 paragraph does not apply to the sale of spirituous liquors on the premises of
2 and by an on-sale retailer. This paragraph also does not apply to a person
3 consuming beer from a broken package in a public recreation area or on
4 private property with permission of the owner or lessor or on the walkways
5 surrounding such private property.

6 21. For a person to have possession of or to transport spirituous
7 liquor which is manufactured in a distillery, winery, brewery or rectifying
8 plant contrary to the laws of the United States and this state. Any property
9 used in transporting such spirituous liquor shall be forfeited to the state
10 and shall be seized and disposed of as provided in section 4-221.

11 22. For an on-sale retailer or employee to allow a person under the
12 legal drinking age to remain in an area on the licensed premises during those
13 hours in which its primary use is the sale, dispensing or consumption of
14 alcoholic beverages after the licensee, or the licensee's employees, know or
15 should have known that the person is under the legal drinking age. An
16 on-sale retailer may designate an area of the licensed premises as an area in
17 which spirituous liquor will not be sold or consumed for the purpose of
18 allowing underage persons on the premises if the designated area is separated
19 by a physical barrier and at no time will underage persons have access to the
20 area in which spirituous liquor is sold or consumed. A licensee or an
21 employee of a licensee may require a person who intends to enter a licensed
22 premises or a portion of a licensed premises where persons under the legal
23 drinking age are prohibited under this section to exhibit a written
24 instrument of identification that is acceptable under section 4-241 as a
25 condition of entry. The director, or a municipality, may adopt rules to
26 regulate the presence of underage persons on licensed premises provided the
27 rules adopted by a municipality are more stringent than those adopted by the
28 director. The rules adopted by the municipality shall be adopted by local
29 ordinance and shall not interfere with the licensee's ability to comply with
30 this paragraph. This paragraph does not apply:

31 (a) If the person under the legal drinking age is accompanied by a
32 spouse, parent or legal guardian of legal drinking age or is an on-duty
33 employee of the licensee.

34 (b) If the owner, lessee or occupant of the premises is a club as
35 defined in section 4-101, paragraph 7, subdivision (a) and the person under
36 the legal drinking age is any of the following:

37 (i) An active duty military service member.

38 (ii) A veteran.

39 (iii) A member of the United States army national guard or the United
40 States air national guard.

41 (iv) A member of the United States military reserve forces.

42 (c) To the area of the premises used primarily for the serving of food
43 during the hours when food is served.

44 23. For an on-sale retailer or employee to conduct drinking contests,
45 to sell or deliver to a person an unlimited number of spirituous liquor
46 beverages during any set period of time for a fixed price, to deliver more
47 than thirty-two ounces of beer, one liter of wine or four ounces of distilled
48 spirits in any spirituous liquor drink to one person at one time for that

1 person's consumption or to advertise any practice prohibited by this
2 paragraph.

3 24. For a licensee or employee to knowingly permit the unlawful
4 possession, use, sale or offer for sale of narcotics, dangerous drugs or
5 marijuana on the premises.

6 25. For a licensee or employee to knowingly permit prostitution or the
7 solicitation of prostitution on the premises.

8 26. For a licensee or employee to knowingly permit unlawful gambling on
9 the premises.

10 27. For a licensee or employee to knowingly permit trafficking or
11 attempted trafficking in stolen property on the premises.

12 28. For a licensee or employee to fail or refuse to make the premises
13 or records available for inspection and examination as provided in this title
14 or to comply with a lawful subpoena issued under this title.

15 29. For any person other than a peace officer, the licensee or an
16 employee of the licensee acting with the permission of the licensee to be in
17 possession of a firearm while on the licensed premises of an on-sale retailer
18 knowing such possession is prohibited. This paragraph shall not be construed
19 to include a situation in which a person is on licensed premises for a
20 limited time in order to seek emergency aid and such person does not buy,
21 receive, consume or possess spirituous liquor. This paragraph shall not
22 apply to:

23 (a) Hotel or motel guest room accommodations. ~~nor to~~

24 (b) The exhibition or display of a firearm in conjunction with a
25 meeting, show, class or similar event.

26 (c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO
27 CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER
28 THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229 AND THAT OFFERS FOR
29 SALE FOOD FOR ON-SITE CONSUMPTION IF THE FOOD IS PREPARED IN A KITCHEN
30 LOCATED ON THE PREMISES. A PERSON WHO POSSESSES A CONCEALED HANDGUN ON THE
31 LICENSED PREMISES AND WHO VIOLATES SECTION 13-2904, PARAGRAPH 6 IS SUBJECT TO
32 PROSECUTION UNDER SECTION 13-2904, PARAGRAPH 6.

33 30. For a licensee or employee to knowingly permit a person in
34 possession of a firearm other than a peace officer, the licensee or an
35 employee of the licensee acting with the permission of the licensee to remain
36 on the licensed premises or to serve, sell or furnish spirituous liquor to a
37 person in possession of a firearm while on the licensed premises of an
38 on-sale retailer. IT SHALL BE A DEFENSE TO ACTION UNDER THIS PARAGRAPH IF
39 THE LICENSEE OR EMPLOYEE REQUESTED ASSISTANCE OF A PEACE OFFICER TO REMOVE
40 SUCH PERSON. This paragraph shall not apply to:

41 (a) Hotel or motel guest room accommodations. ~~nor to~~

42 (b) The exhibition or display of a firearm in conjunction with a
43 meeting, show, class or similar event. ~~It shall be a defense to action under~~
44 ~~this paragraph if the licensee or employee requested assistance of a peace~~
45 ~~officer to remove such person.~~

46 (c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO
47 CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER
48 THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229 AND THAT OFFERS FOR

1 SALE FOOD FOR ON-SITE CONSUMPTION IF THE FOOD IS PREPARED IN A KITCHEN THAT
2 IS LOCATED ON THE PREMISES. A PERSON WHO POSSESSES A CONCEALED HANDGUN ON
3 THE LICENSED PREMISES AND WHO VIOLATES SECTION 13-2904, PARAGRAPH 6 IS
4 SUBJECT TO PROSECUTION UNDER SECTION 13-2904, PARAGRAPH 6.

5 31. FOR ANY PERSON IN POSSESSION OF A FIREARM WHILE ON THE LICENSED
6 PREMISES OF AN ON-SALE RETAILER TO CONSUME SPIRITUOUS LIQUOR.

7 ~~31.~~ 32. For a licensee or employee to knowingly permit spirituous
8 liquor to be removed from the licensed premises, except in the original
9 unbroken package. This paragraph shall not apply to either of the following:

10 (a) A person who removes a bottle of wine which has been partially
11 consumed in conjunction with a purchased meal from licensed premises if a
12 cork is inserted flush with the top of the bottle or the bottle is otherwise
13 securely closed.

14 (b) A person who is in licensed premises that have noncontiguous
15 portions that are separated by a public or private walkway or driveway and
16 who takes spirituous liquor from one portion of the licensed premises across
17 the public or private walkway OR DRIVEWAY directly to the other portion of
18 the licensed premises.

19 ~~32.~~ 33. For a person who is obviously intoxicated to buy or attempt to
20 buy spirituous liquor from a licensee or employee of a licensee or to consume
21 spirituous liquor on licensed premises.

22 ~~33.~~ 34. For a person under ~~the age of~~ twenty-one years OF AGE to drive
23 or be in physical control of a motor vehicle while there is any spirituous
24 liquor in the person's body.

25 ~~34.~~ 35. For a person under ~~the age of~~ twenty-one years OF AGE to
26 operate or be in physical control of a motorized watercraft that is underway
27 while there is any spirituous liquor in the person's body. For the purposes
28 of this paragraph, "underway" has the same meaning prescribed in section
29 5-301.

30 ~~35.~~ 36. For a licensee, manager, employee or controlling person to
31 purposely induce a voter, by means of alcohol, to vote or abstain from voting
32 for or against a particular candidate or issue on an election day.

33 ~~36.~~ 37. For a licensee to fail to report an occurrence of an act of
34 violence to either the department or a law enforcement agency.

35 ~~37.~~ 38. For a licensee to use a vending machine for the purpose of
36 dispensing spirituous liquor.

37 ~~38.~~ 39. For a licensee to offer for sale a wine carrying a label
38 including a reference to Arizona or any Arizona city, town or geographic
39 location unless at least seventy-five per cent by volume of the grapes used
40 in making the wine were grown in Arizona.

41 ~~39.~~ 40. For a retailer to knowingly allow a customer to bring
42 spirituous liquor onto the licensed premises, except that an on-sale retailer
43 may allow a wine and food club to bring wine onto the premises for
44 consumption by the club's members and guests of the club's members in
45 conjunction with meals purchased at a meeting of the club that is conducted
46 on the premises and that at least seven members attend. An on-sale retailer
47 who allows wine and food clubs to bring wine onto its premises under this
48 paragraph shall comply with all applicable provisions of this title and any

1 rules adopted pursuant to this title to the same extent as if the on-sale
2 retailer had sold the wine to the members of the club and their guests. For
3 the purposes of this paragraph, "wine and food club" means an association
4 that has more than twenty bona fide members paying at least six dollars per
5 year in dues and that has been in existence for at least one year.

6 ~~40.~~ 41. For a person under ~~the age of~~ twenty-one years OF AGE to have
7 in the person's body any spirituous liquor. In a prosecution for a violation
8 of this paragraph:

9 (a) Pursuant to section 4-249, it is a defense that the spirituous
10 liquor was consumed in connection with the bona fide practice of a religious
11 belief or as an integral part of a religious exercise and in a manner not
12 dangerous to public health or safety.

13 (b) Pursuant to section 4-226, it is a defense that the spirituous
14 liquor was consumed for a bona fide medicinal purpose and in a manner not
15 dangerous to public health or safety.

16 ~~41.~~ 42. For an employee of a licensee to accept any gratuity,
17 compensation, remuneration or consideration of any kind to either:

18 (a) Permit a person who is under twenty-one years of age to enter any
19 portion of the premises where that person is prohibited from entering
20 pursuant to paragraph 22 of this section.

21 (b) Sell, furnish, dispose of or give spirituous liquor to a person
22 who is under twenty-one years of age.

23 ~~42.~~ 43. For a person to purchase, offer for sale or use any device,
24 machine or process which mixes spirituous liquor with pure oxygen or another
25 gas to produce a vaporized product for the purpose of consumption by
26 inhalation.

27 ~~43.~~ 44. For a retail licensee or an employee of a retail licensee to
28 sell spirituous liquor to a person if the retail licensee or employee knows
29 the person intends to resell the spirituous liquor.

30 Sec. 4. Section 4-246, Arizona Revised Statutes, is amended to read:

31 4-246. Violation; classification

32 A. A person violating any provision of this title is guilty of a class
33 2 misdemeanor unless another classification is prescribed.

34 B. A person violating section 4-244, paragraph 9, 14, ~~33, 41 or 43~~ 34,
35 42 OR 44 is guilty of a class 1 misdemeanor.

36 C. A PERSON VIOLATING SECTION 4-244, PARAGRAPH 29, SUBDIVISION (C)
37 WITHOUT KNOWINGLY VIOLATING SECTION 4-244, PARAGRAPH 29 IS GUILTY OF A CLASS
38 3 MISDEMEANOR.

39 D. A PERSON VIOLATING SECTION 4-244, PARAGRAPH 30, SUBDIVISION (C)
40 WITHOUT KNOWINGLY VIOLATING SECTION 4-244, PARAGRAPH 30, SUBDIVISION (C) IS
41 GUILTY OF A CLASS 3 MISDEMEANOR.

42 E. A PERSON VIOLATING SECTION 4-244, PARAGRAPH 31 IS GUILTY OF A CLASS
43 3 MISDEMEANOR.

44 ~~G.~~ F. In addition to any other penalty prescribed by law, the court
45 may suspend the privilege to drive of a person under eighteen years of age
46 for a period of up to one hundred eighty days on receiving the record of the
47 person's first conviction for a violation of section 4-244, paragraph 9.

1 ~~D.~~ G. In addition to any other penalty prescribed by law, a person
2 who is convicted of a violation of section 4-244, paragraph ~~41~~ 42 shall pay a
3 fine of not less than five hundred dollars.

4 ~~E.~~ H. In addition to any other penalty prescribed by law, a person
5 who is convicted of a violation of section 4-241, subsection L, M or N shall
6 pay a fine of not less than two hundred fifty dollars.

7 Sec. 5. Section 4-301, Arizona Revised Statutes, is amended to read:

8 4-301. Liability limitation; social host; on-sale retailer

9 A. A person other than a licensee or an employee of a licensee acting
10 during the employee's working hours or in connection with such employment is
11 not liable in damages to any person who is injured, or to the survivors of
12 any person killed, or for damage to property, which is alleged to have been
13 caused in whole or in part by reason of the furnishing or serving of
14 spirituous liquor to a person of AT LEAST the legal drinking age.

15 B. AN ON-SALE RETAILER IS NOT LIABLE IN DAMAGES TO ANY PERSON WHO IS
16 INJURED, OR TO THE SURVIVORS OF ANY PERSON KILLED, OR FOR DAMAGE TO PROPERTY,
17 WHICH IS ALLEGED TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY ANOTHER PERSON'S
18 ACTIONS INVOLVING A HANDGUN ON THE ON-SALE RETAILER'S LICENSED PREMISES
19 UNLESS THE ON-SALE RETAILER INTENTIONALLY SOLICITED OR INTENTIONALLY INDUCED
20 THE OTHER PERSON'S ACTIONS INVOLVING A HANDGUN.

21 Sec. 6. Section 5-395.03, Arizona Revised Statutes, is amended to
22 read:

23 5-395.03. Test for alcohol concentration or drug content;
24 refusal

25 A. Any person who operates a motorized watercraft that is underway
26 within this state gives consent, subject to section 4-244, paragraph ~~34~~ 35,
27 section 5-395 or section 5-396, to a test or tests of the person's blood,
28 breath, urine or other bodily substance for the purpose of determining
29 alcohol concentration or drug content if the person is arrested for any
30 offense arising out of acts alleged to have been committed in violation of
31 this chapter or section 4-244, paragraph ~~34~~ 35 while the person was operating
32 or in actual physical control of a motorized watercraft that was underway
33 while under the influence of intoxicating liquor or drugs. The test or tests
34 chosen by the law enforcement agency shall be administered at the direction
35 of a law enforcement officer having reasonable grounds to believe the person
36 to have been operating or in actual physical control of a motorized
37 watercraft that is underway within this state while under the influence of
38 intoxicating liquor or drugs, or if the person is under twenty-one years of
39 age, with spirituous liquor in the person's body.

40 B. Following an arrest a violator shall be requested to submit to and
41 successfully complete any test or tests prescribed by subsection A of this
42 section.

43 C. If a person under arrest refuses to submit to the test designated
44 by the law enforcement agency as provided in subsection A of this section
45 none shall be given, except as provided in section 5-395, subsection L or
46 pursuant to a search warrant.

1 Sec. 7. Section 28-1321, Arizona Revised Statutes, is amended to read:
2 28-1321. Implied consent; tests; refusal to submit to test;
3 order of suspension; hearing; review; temporary
4 permit; notification of suspension; special ignition
5 interlock restricted driver license

6 A. A person who operates a motor vehicle in this state gives consent,
7 subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or
8 28-1383, to a test or tests of the person's blood, breath, urine or other
9 bodily substance for the purpose of determining alcohol concentration or drug
10 content if the person is arrested for any offense arising out of acts alleged
11 to have been committed in violation of this chapter or section 4-244,
12 paragraph ~~33~~ 34 while the person was driving or in actual physical control of
13 a motor vehicle while under the influence of intoxicating liquor or drugs.
14 The test or tests chosen by the law enforcement agency shall be administered
15 at the direction of a law enforcement officer having reasonable grounds to
16 believe that the person was driving or in actual physical control of a motor
17 vehicle in this state either:

- 18 1. While under the influence of intoxicating liquor or drugs.
- 19 2. If the person is under twenty-one years of age, with spirituous
20 liquor in the person's body.

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

30 1. If the test results show a blood or breath alcohol concentration of
31 0.08 or more, or if the results show a blood or breath alcohol concentration
32 of 0.04 or more and the violator was driving or in actual physical control of
33 a commercial motor vehicle, the violator's license or permit to drive will be
34 suspended or denied for not less than ninety consecutive days.

35 2. The violator's driving privilege, license, permit, right to apply
36 for a license or permit or nonresident operating privilege may be issued or
37 reinstated following the period of suspension only if the violator completes
38 alcohol or other drug screening.

39 C. A person who is dead, unconscious or otherwise in a condition
40 rendering the person incapable of refusal is deemed not to have withdrawn the
41 consent provided by subsection A of this section and the test or tests may be
42 administered, subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381,
43 28-1382 or 28-1383.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 2. The manner in which the person refused to submit to the test or
26 tests.

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

28 F. On receipt of the certified report of refusal and a copy of the
29 order of suspension and on the effective date stated on the order, the
30 department shall enter the order of suspension on its records unless a
31 written request for a hearing as provided in this section has been filed by
32 the accused person. If the department receives only the certified report of
33 refusal, the department shall notify the person named in the report in
34 writing sent by mail that:

35 1. Fifteen days after the date of issuance of the notice the
36 department will suspend the person's license or permit, driving privilege or
37 nonresident driving privilege.

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

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

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

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

47 3. The affected person's license or permit to drive or right to apply
48 for a license or permit or any nonresident operating privilege will be

1 suspended for twelve months from that date or for two years from that date
2 for a second or subsequent refusal within a period of eighty-four months.

3 4. The person's driving privilege, license, permit, right to apply for
4 a license or permit or nonresident operating privilege may be issued or
5 reinstated following the period of suspension only if the person completes
6 alcohol or other drug screening.

7 H. The order for suspension shall:

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

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

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

20 J. A timely request for a hearing stays the suspension until a hearing
21 is held, except that the department shall not return any surrendered license
22 or permit to the person but may issue temporary permits to drive that expire
23 no later than when the department has made its final decision. If the person
24 is a resident without a license or permit or has an expired license or
25 permit, the department may allow the person to apply for a restricted license
26 or permit. If the department determines the person is otherwise entitled to
27 the license or permit, the department shall issue and retain a restricted
28 license or permit subject to this section.

29 K. Hearings requested under this section shall be conducted in the
30 same manner and under the same conditions as provided in section 28-3306.
31 For the purposes of this section, the scope of the hearing shall include only
32 the issues of whether:

33 1. A law enforcement officer had reasonable grounds to believe that
34 the person was driving or was in actual physical control of a motor vehicle
35 in this 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 person was placed under arrest.

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

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

42 L. If the department determines at the hearing to suspend the affected
43 person's privilege to operate a motor vehicle, the suspension provided in
44 this section is effective fifteen days after giving written notice of the
45 suspension, except that the department may issue or extend a temporary
46 license that expires on the effective date of the suspension. If the person
47 is a resident without a license or permit or has an expired license or permit
48 to operate a motor vehicle in this state, the department shall deny to the

1 person the issuance of a license or permit for a period of twelve months
2 after the order of suspension becomes effective or for a period of two years
3 after the order of suspension becomes effective for a second or subsequent
4 refusal within a period of eighty-four months, and may reinstate the person's
5 driving privilege, license, permit, right to apply for a license or permit or
6 nonresident operating privilege following the period of suspension only if
7 the person completes alcohol or other drug screening.

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

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

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

23 P. After completing not less than ninety consecutive days of the
24 period of suspension required by this section and any alcohol or other drug
25 screening that is ordered by the department pursuant to this chapter, a
26 person whose driving privilege is suspended pursuant to this section may
27 apply to the department for a special ignition interlock restricted driver
28 license pursuant to section 28-1401. Unless the certified ignition interlock
29 period is extended by the department pursuant to section 28-1461, a person
30 who is issued a special ignition interlock restricted driver license as
31 provided in this subsection shall maintain a functioning certified ignition
32 interlock device in compliance with this chapter during the remaining period
33 of the suspension prescribed by this section. This subsection does not apply
34 to a person whose driving privilege is suspended for a second or subsequent
35 refusal within a period of eighty-four months or a person who within a period
36 of eighty-four months has been convicted of a second or subsequent violation
37 of article 3 of this chapter or section 4-244, paragraph ~~33~~ 34 or an act in
38 another jurisdiction that if committed in this state would be a violation of
39 article 3 of this chapter or section 4-244, paragraph ~~33~~ 34.

40 Sec. 8. Section 28-1385, Arizona Revised Statutes, is amended to read:

41 28-1385. Administrative license suspension for driving under
42 the influence or for homicide or assault involving a
43 motor vehicle; report; hearing; summary review;
44 ignition interlock device requirement

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

1 1. The officer arrests a person for a violation of section 4-244,
2 paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a
3 violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a
4 motor vehicle.

5 2. The person submits to a blood or breath alcohol test permitted by
6 section 28-1321 or any other law or a sample of blood is obtained pursuant to
7 section 28-1388 and the results are either not available or the results
8 indicate either of the following:

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

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

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

18 1. Information that adequately identifies the arrested person.

19 2. A statement of the officer's grounds for belief that the person was
20 driving or in actual physical control of a motor vehicle in violation of
21 section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section
22 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201
23 or 13-1204 involving a motor vehicle.

24 3. A statement that the person was arrested for a violation of section
25 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383
26 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204
27 involving a motor vehicle.

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

30 C. The officer shall also serve an order of suspension on the person
31 on behalf of the department. The order of suspension:

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

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

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

39 4. Shall be accompanied by printed forms ready to mail to the
40 department that the person may fill out and sign to indicate the person's
41 desire for a hearing.

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

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

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

4 D. If the blood alcohol concentration test result is unavailable at
5 the time the test is administered, the result shall be forwarded to the
6 department before the hearing held pursuant to this section in a form
7 prescribed by the director.

8 E. If the license or permit is not surrendered pursuant to subsection
9 C of this section, the officer shall state the reason for the nonsurrender.
10 If a valid license or permit is surrendered, the officer shall issue a
11 temporary driving permit that is valid for fifteen days. The officer shall
12 forward a copy of the completed order of suspension, a copy of any completed
13 temporary permit and any driver license or permit taken into possession under
14 this section to the department within five days after the issuance of the
15 order of suspension along with the report.

16 F. The department shall suspend the affected person's license or
17 permit to drive or right to apply for a license or permit or any nonresident
18 operating privilege for not less than ninety consecutive days from that
19 date. If the person is otherwise qualified, the department may reinstate the
20 person's driving privilege, license, permit, right to apply for a license or
21 permit or nonresident operating privilege following the period of suspension
22 only if the violator completes alcohol or other drug screening.

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

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

39 2. Has not been convicted of a violation of section 4-244, paragraph
40 ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four
41 months of the date of commission of the acts out of which the current action
42 arose. The dates of commission of the acts are the determining factor in
43 applying the eighty-four month provision.

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

47 4. Provides satisfactory evidence to the department of the person's
48 completion of alcohol or other drug screening that is ordered by the

1 department. If the person does not complete alcohol or other drug screening,
2 the department may impose a ninety day suspension pursuant to this section.

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

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

29 J. For the purposes of this section, the scope of the hearing shall
30 include only the following issues:

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

34 2. Whether the person was placed under arrest for a violation of
35 section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section
36 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
37 13-1204 involving a motor vehicle.

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

41 (a) 0.08 or more.

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

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

45 5. Whether the test results were accurately evaluated.

46 K. The results of the blood or breath alcohol test shall be admitted
47 on establishing the requirements in section 28-1323 or 28-1326.

1 L. If the department determines at the hearing to suspend the affected
2 person's privilege to operate a motor vehicle, the suspension provided in
3 this section is effective fifteen days after giving written notice of the
4 suspension, except that the department may issue or extend a temporary
5 license that expires on the effective date of the suspension. If the person
6 is a resident without a license or permit or has an expired license or permit
7 to operate a motor vehicle in this state, the department shall deny the
8 issuance of a license or permit to the person for not less than ninety
9 consecutive days. The department may reinstate the person's driving
10 privilege, license, permit, right to apply for a license or permit or
11 nonresident operating privilege following the period of suspension only if
12 the violator completes alcohol or other drug screening.

13 M. A person may apply for a summary review of an order issued pursuant
14 to this section instead of a hearing at any time before the effective date of
15 the order. The person shall submit the application in writing to any
16 department driver license examining office together with any written
17 explanation as to why the department should not suspend the driving
18 privilege. The agent of the department receiving the notice shall issue to
19 the person an additional driving permit that expires twenty days from the
20 date the request is received. The department shall review all reports
21 submitted by the officer and any written explanation submitted by the person
22 and shall determine if the order of suspension should be sustained or
23 cancelled. The department shall not hold a hearing, and the review is not
24 subject to title 41, chapter 6. The department shall notify the person of
25 its decision before the temporary driving permit expires.

26 N. If the suspension or determination that there should be a denial of
27 issuance is not sustained after a hearing or review, the ruling is not
28 admissible in and does not have any effect on any civil or criminal court
29 proceeding.

30 O. If it has been determined under the procedures of this section that
31 a nonresident's privilege to operate a motor vehicle in this state has been
32 suspended, the department shall give information either in writing or by
33 electronic means of the action taken to the motor vehicle administrator of
34 the state of the person's residence and of any state in which the person has
35 a license.

36 Sec. 9. Section 28-3320, Arizona Revised Statutes, is amended to read:
37 28-3320. Suspension of license for persons under eighteen years
38 of age; notice; definition

39 A. In addition to the grounds for mandatory suspension or revocation
40 provided for in chapters 3, 4 and 5 of this title, the department shall
41 immediately suspend the driver license or privilege to drive or refuse to
42 issue a driver license or privilege to drive of a person who commits an
43 offense while under eighteen years of age as follows:

44 1. For a period of two years on receiving the record of the person's
45 conviction for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381
46 or section 28-1382.

47 2. For a period of three years on receiving the record of the person's
48 conviction for a violation of section 28-1383.

1 3. Until the person's eighteenth birthday on receiving the record of
2 the person's conviction for a violation of section 13-1602, subsection A,
3 paragraph 1 or section 13-1604, subsection A involving the damage or
4 disfigurement of property by graffiti.

5 4. Until the person's eighteenth birthday on receiving the record of
6 the person's conviction of criminal damage pursuant to section 13-1602,
7 subsection A, paragraph 5 or a violation of a city or town ordinance that
8 prohibits the type of criminal action prescribed in section 13-1602,
9 subsection A, paragraph 5.

10 5. Until the person's eighteenth birthday on receiving the record of
11 the person's conviction for a violation of any statute or ordinance involving
12 the purchase or possession of materials used for graffiti.

13 6. Until the person's eighteenth birthday on receiving the record of
14 the person's conviction for a violation of any provision of title 13,
15 chapter 34.

16 7. Until the person's eighteenth birthday or for a period of two years
17 on receiving the record of the person's conviction for a second or subsequent
18 violation of section 4-244, paragraph 9, if ordered by the court.

19 8. Until the person's eighteenth birthday on receiving the record of
20 the person's conviction of theft of a motor vehicle pursuant to section
21 13-1802, unlawful use of means of transportation pursuant to section 13-1803
22 or theft of means of transportation pursuant to section 13-1814.

23 B. If ordered by the court, the department shall restrict the person's
24 privilege to drive between the person's home, school and place of employment
25 during specified periods of time according to the person's school and
26 employment schedule.

27 C. If a person commits an offense prescribed in subsection A,
28 paragraph 1 of this section and the person's privilege to drive is restricted
29 as prescribed in subsection B of this section, the department shall issue a
30 special ignition interlock restricted driver license to the person pursuant
31 to section 28-1401.

32 D. If ordered by the court pursuant to section 4-246, subsection ~~E~~ F,
33 the department shall suspend the driving privilege of a person under ~~the age~~
34 ~~of~~ eighteen YEARS OF AGE for a period of up to one hundred eighty days on
35 receiving the record of the person's first conviction for a violation of
36 section 4-244, paragraph 9.

37 E. For the purposes of this section, "conviction" means a final
38 conviction or judgment, including an order of the juvenile court finding that
39 a juvenile violated any provision of this title or committed a delinquent act
40 that if committed by an adult would constitute a criminal offense.

41 Sec. 10. Section 28-3322, Arizona Revised Statutes, is amended to
42 read:

43 28-3322. Suspension of license for persons eighteen, nineteen
44 and twenty years of age; definition

45 A. In addition to the grounds for mandatory suspension or revocation
46 provided for in chapters 3, 4 and 5 of this title, the department shall
47 immediately suspend the driver license or privilege to drive or refuse to
48 issue a driver license or privilege to drive of a person who commits a

1 violation of section 4-244, paragraph ~~33~~ 34 while the person is eighteen,
2 nineteen or twenty years of age on receipt of the record of the person's
3 conviction for a violation of section 4-244, paragraph ~~33~~ 34 for a period of
4 two years.

5 B. If ordered by the court, the department shall restrict the person's
6 privilege to drive between the person's home, school and place of employment
7 during specified periods of time according to the person's school and
8 employment schedule.

9 C. If a person's privilege to drive is restricted as prescribed in
10 subsection B of this section, the department shall issue a special ignition
11 interlock restricted driver license to the person pursuant to section
12 28-1401.

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

17 Sec. 11. Section 28-3511, Arizona Revised Statutes, is amended to
18 read:

19 28-3511. Removal and immobilization or impoundment of vehicle

20 A. A peace officer shall cause the removal and either immobilization
21 or impoundment of a vehicle if the peace officer determines that a person is
22 driving the vehicle while either of the following applies:

23 1. The person's driving privilege is suspended or revoked for any
24 reason.

25 2. The person has not ever been issued a valid driver license or
26 permit by this state and the person does not produce evidence of ever having
27 a valid driver license or permit issued by another jurisdiction.

28 3. The person is subject to an ignition interlock device requirement
29 pursuant to chapter 4 of this title and the person is operating a vehicle
30 without a functioning certified ignition interlock device. This paragraph
31 does not apply to a person operating an employer's vehicle or the operation
32 of a vehicle due to a substantial emergency as defined in section 28-1464.

33 B. A peace officer shall cause the removal and impoundment of a
34 vehicle if the peace officer determines that a person is driving the vehicle
35 and if all of the following apply:

36 1. The person's driving privilege is canceled, suspended or revoked
37 for any reason or the person has not ever been issued a driver license or
38 permit by this state and the person does not produce evidence of ever having
39 a driver license or permit issued by another jurisdiction.

40 2. The person is not in compliance with the financial responsibility
41 requirements of chapter 9, article 4 of this title.

42 3. The person is driving a vehicle that is involved in an accident
43 that results in either property damage or injury to or death of another
44 person.

45 C. Except as provided in subsection D of this section, while a peace
46 officer has control of the vehicle the peace officer shall cause the removal
47 and either immobilization or impoundment of the vehicle if the peace officer

1 has probable cause to arrest the driver of the vehicle for a violation of
2 section 4-244, paragraph ~~33~~ 34 or section 28-1382 or 28-1383.

3 D. A peace officer shall not cause the removal and either the
4 immobilization or impoundment of a vehicle pursuant to subsection C of this
5 section if all of the following apply:

6 1. The peace officer determines that the vehicle is currently
7 registered and that the driver or the vehicle is in compliance with the
8 financial responsibility requirements of chapter 9, article 4 of this title.

9 2. The spouse of the driver is with the driver at the time of the
10 arrest.

11 3. The peace officer has reasonable grounds to believe that the spouse
12 of the driver:

13 (a) Has a valid driver license.

14 (b) Is not impaired by intoxicating liquor, any drug, a vapor
15 releasing substance containing a toxic substance or any combination of
16 liquor, drugs or vapor releasing substances.

17 (c) Does not have any spirituous liquor in the spouse's body if the
18 spouse is under twenty-one years of age.

19 4. The spouse notifies the peace officer that the spouse will drive
20 the vehicle from the place of arrest to the driver's home or other place of
21 safety.

22 5. The spouse drives the vehicle as prescribed by paragraph 4 of this
23 subsection.

24 E. Except as otherwise provided in this article, a vehicle that is
25 removed and either immobilized or impounded pursuant to subsection A, B or C
26 of this section shall be immobilized or impounded for thirty days. An
27 insurance company does not have a duty to pay any benefits for charges or
28 fees for immobilization or impoundment.

29 F. The owner of a vehicle that is removed and either immobilized or
30 impounded pursuant to subsection A, B or C of this section, the spouse of the
31 owner and each person identified on the department's record with an interest
32 in the vehicle shall be provided with an opportunity for an immobilization or
33 poststorage hearing pursuant to section 28-3514."

34 Amend title to conform

RUSSELL PEARCE

1113rp
06/03/2009
2:26 PM
C: tdb