

COMMITTEE ON JUDICIARY
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.

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

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

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

44 (c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO
45 CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER
46 THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229 AND THAT OFFERS FOR
47 SALE FOOD FOR ON-SITE CONSUMPTION IF THE FOOD IS PREPARED IN A KITCHEN THAT
48 IS LOCATED ON THE PREMISES.

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

3 ~~31.~~ 32. For a licensee or employee to knowingly permit spirituous
4 liquor to be removed from the licensed premises, except in the original
5 unbroken package. This paragraph shall not apply to either of the following:

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

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

15 ~~32.~~ 33. For a person who is obviously intoxicated to buy or attempt to
16 buy spirituous liquor from a licensee or employee of a licensee or to consume
17 spirituous liquor on licensed premises.

18 ~~33.~~ 34. For a person under ~~the age of~~ twenty-one years OF AGE to drive
19 or be in physical control of a motor vehicle while there is any spirituous
20 liquor in the person's body.

21 ~~34.~~ 35. For a person under ~~the age of~~ twenty-one years OF AGE to
22 operate or be in physical control of a motorized watercraft that is underway
23 while there is any spirituous liquor in the person's body. For the purposes
24 of this paragraph, "underway" has the same meaning prescribed in section
25 5-301.

26 ~~35.~~ 36. For a licensee, manager, employee or controlling person to
27 purposely induce a voter, by means of alcohol, to vote or abstain from voting
28 for or against a particular candidate or issue on an election day.

29 ~~36.~~ 37. For a licensee to fail to report an occurrence of an act of
30 violence to either the department or a law enforcement agency.

31 ~~37.~~ 38. For a licensee to use a vending machine for the purpose of
32 dispensing spirituous liquor.

33 ~~38.~~ 39. For a licensee to offer for sale a wine carrying a label
34 including a reference to Arizona or any Arizona city, town or geographic
35 location unless at least seventy-five per cent by volume of the grapes used
36 in making the wine were grown in Arizona.

37 ~~39.~~ 40. For a retailer to knowingly allow a customer to bring
38 spirituous liquor onto the licensed premises, except that an on-sale retailer
39 may allow a wine and food club to bring wine onto the premises for
40 consumption by the club's members and guests of the club's members in
41 conjunction with meals purchased at a meeting of the club that is conducted
42 on the premises and that at least seven members attend. An on-sale retailer
43 who allows wine and food clubs to bring wine onto its premises under this
44 paragraph shall comply with all applicable provisions of this title and any
45 rules adopted pursuant to this title to the same extent as if the on-sale
46 retailer had sold the wine to the members of the club and their guests. For
47 the purposes of this paragraph, "wine and food club" means an association

1 that has more than twenty bona fide members paying at least six dollars per
2 year in dues and that has been in existence for at least one year.

3 ~~40-~~ 41. For a person under ~~the age of~~ twenty-one years OF AGE to have
4 in the person's body any spirituous liquor. In a prosecution for a violation
5 of this paragraph:

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

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

13 ~~41-~~ 42. For an employee of a licensee to accept any gratuity,
14 compensation, remuneration or consideration of any kind to either:

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

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

20 ~~42-~~ 43. For a person to purchase, offer for sale or use any device,
21 machine or process which mixes spirituous liquor with pure oxygen or another
22 gas to produce a vaporized product for the purpose of consumption by
23 inhalation.

24 ~~43-~~ 44. For a retail licensee or an employee of a retail licensee to
25 sell spirituous liquor to a person if the retail licensee or employee knows
26 the person intends to resell the spirituous liquor.

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

28 4-246. Violation; classification

29 A. A person violating any provision of this title is guilty of a class
30 2 misdemeanor unless another classification is prescribed.

31 B. A person violating section 4-244, paragraph 9, 14, ~~33, 41 or 43~~ 34,
32 42 OR 44 is guilty of a class 1 misdemeanor.

33 C. A PERSON VIOLATING SECTION 4-244, PARAGRAPH 31 IS GUILTY OF A CLASS
34 3 MISDEMEANOR.

35 ~~E-~~ D. In addition to any other penalty prescribed by law, the court
36 may suspend the privilege to drive of a person under eighteen years of age
37 for a period of up to one hundred eighty days on receiving the record of the
38 person's first conviction for a violation of section 4-244, paragraph 9.

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

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

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

46 4-301. Liability limitation; social host; on-sale retailer

47 A. A person other than a licensee or an employee of a licensee acting
48 during the employee's working hours or in connection with such employment is

1 not liable in damages to any person who is injured, or to the survivors of
2 any person killed, or for damage to property, which is alleged to have been
3 caused in whole or in part by reason of the furnishing or serving of
4 spirituous liquor to a person of AT LEAST the legal drinking age.

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

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

13 5-395.03. Test for alcohol concentration or drug content:
14 refusal

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

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

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

37 Sec. 7. Section 11-441, Arizona Revised Statutes, is amended to read:

38 11-441. Powers and duties

39 A. The sheriff shall:

40 1. Preserve the peace.

41 2. Arrest and take before the nearest magistrate for examination all
42 persons who attempt to commit or who have committed a public offense.

43 3. Prevent and suppress all affrays, breaches of the peace, riots and
44 insurrections which may come to the knowledge of the sheriff.

1 4. Attend all courts, except justice and municipal courts, when an
2 element of danger is anticipated and attendance is requested by the presiding
3 judge, and obey lawful orders and directions issued by the judge.

4 5. Take charge of and keep the county jail, including a county jail
5 under the jurisdiction of a county jail district, and the prisoners in the
6 county jail.

7 6. Endorse upon all process and notices the year, month, day, hour and
8 minute of reception, and issue to the person delivering it, on payment of
9 fees, a certificate showing the names of the parties, title of paper and time
10 of reception.

11 7. Serve process and notices in the manner prescribed by law and
12 certify under the sheriff's hand upon the process or notices the manner and
13 time of service, or if the sheriff fails to make service, the reasons for
14 failure, and return them without delay. When returnable to another county,
15 the sheriff may enclose such process or notices in an envelope, addressed to
16 the officer from whom received, and deposit it postage prepaid in the post
17 office. The return of the sheriff is prima facie evidence of the facts
18 stated in the return.

19 8. Secure, as soon as possible, the home of a deceased person located
20 outside the boundaries of an incorporated city or town if the sheriff is
21 unable to determine or locate the heirs or executor of the deceased person.

22 B. The sheriff may in the execution of the duties prescribed in
23 subsection A, paragraphs 1 through 4 command the aid of as many inhabitants
24 of the county as the sheriff deems necessary.

25 C. The sheriff shall conduct or coordinate within the county search or
26 rescue operations involving the life or health of any person, or may assist
27 in such operations in another county at the request of that county's sheriff,
28 and may request assistance from any persons or agencies in the fulfillment of
29 duties under this subsection.

30 D. The sheriff, in the execution of the duties prescribed in this
31 section, may request the aid of volunteer posse and reserve organizations
32 located in the county.

1 E. The sheriff may assist in the execution of the duties prescribed in
2 this section in another county at the request of that county's sheriff.

3 F. The sheriff may require any prisoner who is on work release to
4 reimburse the county for reasonable expenses incurred in connection with the
5 release.

6 G. The board of supervisors of a county bordering the Republic of
7 Mexico may adopt an ordinance pursuant to chapter 2 of this title allowing
8 the sheriff to prevent the entry from this state into the republic of Mexico
9 at the border by any resident of this state who is under eighteen years of
10 age if the minor is unaccompanied by a parent or guardian or does not have
11 written consent for entry from a parent or guardian. The authority of the
12 sheriff is only to prevent entry and not to otherwise detain the minor. This
13 subsection shall not be construed to limit the authority of the sheriff
14 pursuant to any other law. A county is not civilly or criminally liable for
15 not adopting an ordinance pursuant to this subsection.

16 H. NOTWITHSTANDING SECTION 13-3112, THE SHERIFF MAY AUTHORIZE MEMBERS
17 OF THE SHERIFF'S VOLUNTEER POSSE WHO HAVE RECEIVED FIREARMS TRAINING THAT IS
18 APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD TO CARRY A
19 DEADLY WEAPON WITHOUT A PERMIT WHILE ON DUTY.

20 Sec. 8. Section 13-3102, Arizona Revised Statutes, is amended to read:

21 13-3102. Misconduct involving weapons; defenses;
22 classification; definitions

23 A. A person commits misconduct involving weapons by knowingly:

24 1. Carrying a deadly weapon without a permit pursuant to section
25 13-3112 except a pocket knife concealed on his person; or

26 2. Carrying a deadly weapon without a permit pursuant to section
27 13-3112 concealed within immediate control of any person in or on a means of
28 transportation; or

29 3. Manufacturing, possessing, transporting, selling or transferring a
30 prohibited weapon, except that if the violation involves dry ice, a person
31 commits misconduct involving weapons by knowingly possessing the dry ice with

1 the intent to cause injury to or death of another person or to cause damage
2 to the property of another person; or

3 4. Possessing a deadly weapon or prohibited weapon if such person is a
4 prohibited possessor; or

5 5. Selling or transferring a deadly weapon to a prohibited possessor;
6 or

7 6. Defacing a deadly weapon; or

8 7. Possessing a defaced deadly weapon knowing the deadly weapon was
9 defaced; or

10 8. Using or possessing a deadly weapon during the commission of any
11 felony offense included in chapter 34 of this title; or

12 9. Discharging a firearm at an occupied structure in order to assist,
13 promote or further the interests of a criminal street gang, a criminal
14 syndicate or a racketeering enterprise; or

15 10. Unless specifically authorized by law, entering any public
16 establishment or attending any public event and carrying a deadly weapon on
17 his person after a reasonable request by the operator of the establishment or
18 the sponsor of the event or the sponsor's agent to remove his weapon and
19 place it in the custody of the operator of the establishment or the sponsor
20 of the event for temporary and secure storage of the weapon pursuant to
21 section 13-3102.01; or

22 11. Unless specifically authorized by law, entering an election polling
23 place on the day of any election carrying a deadly weapon; or

24 12. Possessing a deadly weapon on school grounds; or

25 13. Unless specifically authorized by law, entering a nuclear or
26 hydroelectric generating station carrying a deadly weapon on his person or
27 within the immediate control of any person; or

28 14. Supplying, selling or giving possession or control of a firearm to
29 another person if the person knows or has reason to know that the other
30 person would use the firearm in the commission of any felony; or

31 15. Using, possessing or exercising control over a deadly weapon in
32 furtherance of any act of terrorism as defined in section 13-2301 or

1 possessing or exercising control over a deadly weapon knowing or having
2 reason to know that it will be used to facilitate any act of terrorism as
3 defined in section 13-2301.

4 B. Subsection A, paragraph 1 of this section shall not apply to a
5 person in his dwelling, on his business premises or on real property owned or
6 leased by that person.

7 C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this
8 section shall not apply to:

9 1. A peace officer or any person summoned by any peace officer to
10 assist and while actually assisting in the performance of official duties; or

11 2. A member of the military forces of the United States or of any
12 state of the United States in the performance of official duties; or

13 3. A warden, deputy warden or correctional officer of the state
14 department of corrections; or

15 4. A person specifically licensed, authorized or permitted pursuant to
16 a statute of this state or of the United States.

17 D. SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION SHALL NOT APPLY
18 TO:

19 1. A MEMBER OF A SHERIFF'S VOLUNTEER POSSE OR RESERVE ORGANIZATION WHO
20 HAS RECEIVED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER
21 STANDARDS AND TRAINING BOARD AND WHO IS AUTHORIZED BY THE SHERIFF TO CARRY A
22 CONCEALED WEAPON PURSUANT TO SECTION 11-441.

23 2. A PERSON WHO HAS HONORABLY SERVED AS A LAW ENFORCEMENT OFFICER IN
24 THE UNITED STATES FOR AT LEAST TEN CONSECUTIVE YEARS AND WHO POSSESSES A
25 PHOTOGRAPHIC IDENTIFICATION FROM A LAW ENFORCEMENT AGENCY THAT STATES THE
26 PERSON HAS SERVED FOR AT LEAST TEN CONSECUTIVE YEARS AS A LAW ENFORCEMENT
27 OFFICER IN THE UNITED STATES. ON REQUEST, THE LAW ENFORCEMENT AGENCY THAT
28 MOST RECENTLY EMPLOYED THE PERSON OR, IF THE PERSON WAS EMPLOYED OUTSIDE OF
29 THIS STATE, THE SHERIFF OF THE COUNTY IN WHICH THE PERSON RESIDES SHALL ISSUE
30 A PHOTOGRAPHIC IDENTIFICATION THAT VERIFIES THE PERSON MEETS THE REQUIREMENT
31 OF THIS PARAGRAPH.

1 ~~D.~~ E. Subsection A, paragraphs 3 and 7 of this section shall not
2 apply to:

3 1. The possessing, transporting, selling or transferring of weapons by
4 a museum as a part of its collection or an educational institution for
5 educational purposes or by an authorized employee of such museum or
6 institution, if:

7 (a) Such museum or institution is operated by the United States or
8 this state or a political subdivision of this state, or by an organization
9 described in 26 United States Code section 170(c) as a recipient of a
10 charitable contribution; and

11 (b) Reasonable precautions are taken with respect to theft or misuse
12 of such material.

13 2. The regular and lawful transporting as merchandise; or

14 3. Acquisition by a person by operation of law such as by gift, devise
15 or descent or in a fiduciary capacity as a recipient of the property or
16 former property of an insolvent, incapacitated or deceased person.

17 ~~E.~~ F. Subsection A, paragraph 3 of this section shall not apply to
18 the merchandise of an authorized manufacturer of or dealer in prohibited
19 weapons, when such material is intended to be manufactured, possessed,
20 transported, sold or transferred solely for or to a dealer, a regularly
21 constituted or appointed state, county or municipal police department or
22 police officer, a detention facility, the military service of this or another
23 state or the United States, a museum or educational institution or a person
24 specifically licensed or permitted pursuant to federal or state law.

25 ~~F.~~ G. Subsection A, paragraph 1 of this section shall not apply to a
26 weapon or weapons carried in a belt holster that is wholly or partially
27 visible, ~~or~~ carried in a scabbard or case designed for carrying weapons that
28 is wholly or partially visible or carried in luggage. Subsection A,
29 paragraph 2 of this section shall not apply to a weapon or weapons carried in
30 a case, holster, scabbard, pack or luggage that is carried within a means of
31 transportation or within a storage compartment, map pocket, trunk or glove
32 compartment of a means of transportation.

1 ~~G.~~ H. Subsection A, paragraph 10 of this section shall not apply to
2 shooting ranges or shooting events, hunting areas or similar locations or
3 activities.

4 ~~H.~~ I. Subsection A, paragraph 3 of this section shall not apply to a
5 weapon described in section 13-3101, subsection A, paragraph 8, subdivision
6 (a), item (v), if such weapon is possessed for the purposes of preparing for,
7 conducting or participating in lawful exhibitions, demonstrations, contests
8 or athletic events involving the use of such weapon. Subsection A, paragraph
9 12 of this section shall not apply to a weapon if such weapon is possessed
10 for the purposes of preparing for, conducting or participating in hunter or
11 firearm safety courses.

12 ~~I.~~ J. Subsection A, paragraph 12 of this section shall not apply to
13 the possession of a:

14 1. Firearm that is not loaded and that is carried within a means of
15 transportation under the control of an adult provided that if the adult
16 leaves the means of transportation the firearm shall not be visible from the
17 outside of the means of transportation and the means of transportation shall
18 be locked.

19 2. Firearm for use on the school grounds in a program approved by a
20 school.

21 ~~J.~~ K. The operator of the establishment or the sponsor of the event
22 or the employee of the operator or sponsor or the agent of the sponsor,
23 including a public entity or public employee, is not liable for acts or
24 omissions pursuant to subsection A, paragraph 10 of this section unless the
25 operator, sponsor, employee or agent intended to cause injury or was grossly
26 negligent.

27 ~~K.~~ L. MISCONDUCT INVOLVING WEAPONS UNDER SUBSECTION A, PARAGRAPH 15
28 OF THIS SECTION IS A CLASS 2 FELONY. Misconduct involving weapons under
29 subsection A, paragraph 9, ~~OR 14~~ ~~or 15~~ of this section is a class 3
30 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8
31 or 13 of this section is a class 4 felony. Misconduct involving weapons
32 under subsection A, paragraph 12 of this section is a class 1 misdemeanor

1 unless the violation occurs in connection with conduct that violates section
2 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section
3 13-3409 or section 13-3411, in which case the offense is a class 6 felony.
4 Misconduct involving weapons under subsection A, paragraph 5, 6 or 7 of this
5 section is a class 6 felony. Misconduct involving weapons under subsection
6 A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

7 ~~L~~ M. For the purposes of this section:

8 1. "Public establishment" means a structure, vehicle or craft that is
9 owned, leased or operated by this state or a political subdivision of this
10 state.

11 2. "Public event" means a specifically named or sponsored event of
12 limited duration that is either conducted by a public entity or conducted by
13 a private entity with a permit or license granted by a public entity. Public
14 event does not include an unsponsored gathering of people in a public place.

15 3. "School" means a public or nonpublic kindergarten program, common
16 school or high school.

17 4. "School grounds" means in, or on the grounds of, a school.

18 Sec. 9. Section 13-3112, Arizona Revised Statutes, is amended to read:

19 13-3112. Concealed weapons; qualification; application; permit
20 to carry; certificate of firearms proficiency;
21 training program; program instructors; report;
22 applicability; violation; classification

23 A. The department of public safety shall issue a permit to carry a
24 concealed weapon to a person who is qualified under this section. The person
25 shall carry the permit at all times when the person is in actual possession
26 of the concealed weapon and shall present the permit for inspection to any
27 law enforcement officer on request.

28 B. A person who fails to carry the permit at all times that the person
29 is in actual possession of a concealed weapon may have the permit suspended.
30 The department of public safety shall be notified of all violations of this
31 section and shall immediately suspend the permit. The permittee shall
32 present the permit to the law enforcement agency or the court. On

1 notification of the presentation of the permit, the department shall restore
2 the permit.

3 C. The permit of a person who is arrested or indicted for an offense
4 that would make the person unqualified under section 13-3101, subsection A,
5 paragraph 7 or this section shall be immediately suspended and seized. The
6 permit of a person who becomes unqualified on conviction of that offense
7 shall be revoked. The permit shall be restored on presentation of
8 documentation from the court if the permittee is found not guilty or the
9 charges are dismissed. The permit shall be restored on presentation of
10 documentation from the county attorney that the charges against the permittee
11 were dropped or dismissed.

12 D. A permittee who carries a concealed weapon and who fails to present
13 a permit for inspection on the request of a law enforcement officer is guilty
14 of a petty offense. A permittee shall not be convicted of a violation of
15 this subsection if the permittee produces to the court a legible permit that
16 is issued to the permittee and that was valid at the time the violation of
17 this subsection occurred.

18 E. The department of public safety shall issue a permit to an
19 applicant who meets all of the following conditions:

- 20 1. Is a resident of this state or a United States citizen.
- 21 2. Is twenty-one years of age or older.
- 22 3. Is not under indictment for and has not been convicted in any
23 jurisdiction of a felony unless that conviction has been expunged, set aside
24 or vacated or the applicant's rights have been restored and the applicant is
25 currently not a prohibited possessor under state or federal law.
- 26 4. Does not suffer from mental illness and has not been adjudicated
27 mentally incompetent or committed to a mental institution.
- 28 5. Is not unlawfully present in the United States.
- 29 6. Has ever satisfactorily completed a firearms safety training
30 program authorized by the department of public safety pursuant to subsection
31 0 of this section and provides adequate documentation that the authorized
32 training program was satisfactorily completed. For the purposes of this

1 paragraph, "adequate documentation" means a certificate, card or document of
2 completion from ~~an authorized~~ A firearms safety training program AUTHORIZED
3 pursuant to subsection 0 of this section, dated not more than five years
4 earlier than the date of application, that has affixed to it the stamp,
5 signature or seal of the instructor or organization that conducted the
6 program, or a current or expired permit issued by the department of public
7 safety pursuant to this section. This paragraph does not apply to:

8 (a) A person who is an active duty Arizona peace officer standards and
9 training board certified or federally credentialed peace officer or who is
10 honorably retired as a federal, state or local peace officer with a minimum
11 of ten years of service.

12 (b) A person who is an active duty county detention officer and who
13 has been weapons certified by the officer's employing agency.

14 (c) A person who is issued a certificate of firearms proficiency
15 pursuant to subsection X of this section.

16 (d) A PERSON WHO IS AN ARIZONA PEACE OFFICER STANDARDS AND TRAINING
17 BOARD CERTIFIED FULL AUTHORITY PEACE OFFICER AND WHO VOLUNTEERS IN A LAW
18 ENFORCEMENT AGENCY'S RESERVE PROGRAM.

19 F. The application shall be completed on a form prescribed by the
20 department of public safety. The form shall not require the applicant to
21 disclose the type of firearm for which a permit is sought. The applicant
22 shall attest under penalty of perjury that all of the statements made by the
23 applicant are true. The applicant shall submit the application to the
24 department with a certificate of completion from an authorized firearms
25 safety training program, two sets of fingerprints and a reasonable fee
26 determined by the director of the department.

27 G. On receipt of a concealed weapon permit application, the department
28 of public safety shall conduct a check of the applicant's criminal history
29 record pursuant to section 41-1750. The department of public safety may
30 exchange fingerprint card information with the federal bureau of
31 investigation for federal criminal history record checks.

1 H. The department of public safety shall complete all of the required
2 qualification checks within sixty days after receipt of the application and
3 shall issue a permit within fifteen working days after completing the
4 qualification checks if the applicant meets all of the conditions specified
5 in subsection E of this section. If a permit is denied, the department of
6 public safety shall notify the applicant in writing within fifteen working
7 days after the completion of all of the required qualification checks and
8 shall state the reasons why the application was denied. On receipt of the
9 notification of the denial, the applicant has twenty days to submit any
10 additional documentation to the department. On receipt of the additional
11 documentation, the department shall reconsider its decision and inform the
12 applicant within twenty days of the result of the reconsideration. If
13 denied, the applicant shall be informed that the applicant may request a
14 hearing pursuant to title 41, chapter 6, article 10.

15 I. On issuance, a permit is valid for five years, except a permit that
16 is held by a member of the United States armed forces, including a member of
17 the Arizona national guard or a member of the reserves of any military
18 establishment of the United States, who is on federal active duty and who is
19 deployed overseas shall be extended until ninety days after the end of the
20 member's overseas deployment.

21 J. The department of public safety shall maintain a computerized
22 permit record system that is accessible to criminal justice agencies for the
23 purpose of confirming the permit status of any person who claims to hold a
24 valid permit issued by this state. This information and any other records
25 that are maintained regarding applicants, permit holders or instructors shall
26 not be available to any other person or entity except on an order from a
27 state or federal court.

28 K. Notwithstanding subsection J of this section, it is a defense to
29 any charge for carrying a deadly weapon without a permit by a member of the
30 United States armed forces, including a member of the Arizona national guard
31 or a member of the reserves of any military establishment of the United
32 States, if the member was on federal active duty at the time the permit

1 expired and the member presents documentation indicating release from active
2 duty or reassignment from overseas deployment within the preceding ninety
3 days.

4 L. A permit issued pursuant to this section is renewable every five
5 years. Before a permit may be renewed, a criminal history records check
6 shall be conducted pursuant to section 41-1750 within sixty days after
7 receipt of the application for renewal. For the purposes of permit renewal,
8 the permit holder is not required to submit additional fingerprints.

9 M. Applications for renewal shall be accompanied by a fee determined
10 by the director of the department of public safety.

11 N. The department of public safety shall suspend or revoke a permit
12 issued under this section if the permit holder becomes ineligible pursuant to
13 subsection E of this section. The department of public safety shall notify
14 the permit holder in writing within fifteen working days after the revocation
15 or suspension and shall state the reasons for the revocation or suspension.

16 O. An organization shall apply to the department of public safety for
17 authorization to provide firearms safety training. The department shall
18 authorize an organization to provide firearms safety training if the training
19 meets the following requirements:

20 1. Is at least eight hours in length.

21 2. Is conducted on a pass or fail basis.

22 3. Addresses all of the following topics in a format approved by the
23 director of the department:

24 (a) Legal issues relating to the use of deadly force.

25 (b) Weapon care and maintenance.

26 (c) Mental conditioning for the use of deadly force.

27 (d) Safe handling and storage of weapons.

28 (e) Marksmanship.

29 (f) Judgmental shooting.

30 4. Is conducted by instructors who are authorized by the department of
31 public safety or who possess current national rifle association instructor
32 certifications in pistol and personal protection and who submit to a

1 background investigation, including a check for warrants and a criminal
2 history records check.

3 P. If authorized pursuant to subsection 0 of this section, the
4 organization on behalf of each of its instructors shall submit to the
5 department of public safety two sets of fingerprints and a fee to be
6 determined by the director of the department of public safety. On receipt of
7 the fingerprints and fee, the department of public safety shall conduct a
8 check of each instructor's criminal history record pursuant to section
9 41-1750. The department of public safety may exchange this fingerprint card
10 information with the federal bureau of investigation for federal criminal
11 history record checks.

12 Q. The proprietary interest of all authorized instructors and programs
13 shall be safeguarded, and the contents of any training program shall not be
14 disclosed to any person or entity other than a bona fide criminal justice
15 agency, except on an order from a state or federal court.

16 R. If the department of public safety rejects a program, the rejected
17 organization may request a hearing pursuant to title 41, chapter 6,
18 article 10.

19 S. The department of public safety shall maintain information
20 comparing the number of permits requested, the number of permits issued and
21 the number of permits denied. The department shall annually report this
22 information to the governor and the legislature.

23 T. The director of the department of public safety shall adopt rules
24 for the purpose of implementing and administering the concealed weapons
25 permit program including fees relating to permits and certificates that are
26 issued pursuant to this section.

27 U. This state and any political subdivision of this state shall
28 recognize a concealed weapon, firearm or handgun permit or license that is
29 issued by another state or a political subdivision of another state if both:

30 1. The permit or license is recognized as valid in the issuing state.

31 2. The permit or license holder is all of the following:

32 (a) Not a resident of this state.

1 (b) Legally present in this state.

2 (c) Not legally prohibited from possessing a firearm in this state.

3 V. For the purpose of establishing mutual permit or license
4 recognition with other states, the department of public safety shall enter
5 into a written agreement if another state requires a written agreement.

6 W. Notwithstanding the provisions of this section, a person with a
7 concealed weapons permit from another state may not carry a concealed weapon
8 in this state if the person is under twenty-one years of age or is under
9 indictment for, or has been convicted of, a felony offense in any
10 jurisdiction, unless the person's rights have been restored and the
11 conviction is expunged, set aside or vacated and the applicant is currently
12 not a prohibited possessor under state or federal law.

13 X. The department of public safety may issue certificates of firearms
14 proficiency according to the Arizona peace officer standards and training
15 board firearms qualification for the purposes of implementing the law
16 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18
17 United States Code sections 926B and 926C). A law enforcement agency shall
18 issue to a law enforcement officer who has honorably retired a photographic
19 identification that states that the officer has honorably retired from the
20 agency. The chief law enforcement officer shall determine whether an officer
21 has honorably retired and the determination is not subject to review. A law
22 enforcement agency has no obligation to revoke, alter or modify the honorable
23 discharge photographic identification based on conduct that the agency
24 becomes aware of or that occurs after the officer has separated from the
25 agency.

26 Sec. 10. Section 28-1321, Arizona Revised Statutes, is amended to
27 read:

28 28-1321. Implied consent; tests; refusal to submit to test;
29 order of suspension; hearing; review; temporary
30 permit; notification of suspension; special ignition
31 interlock restricted driver license

32 A. A person who operates a motor vehicle in this state gives consent,
33 subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or
34 28-1383, to a test or tests of the person's blood, breath, urine or other
35 bodily substance for the purpose of determining alcohol concentration or drug
36 content if the person is arrested for any offense arising out of acts alleged

1 to have been committed in violation of this chapter or section 4-244,
2 paragraph ~~33~~ 34 while the person was driving or in actual physical control of
3 a motor vehicle while under the influence of intoxicating liquor or drugs.
4 The test or tests chosen by the law enforcement agency shall be administered
5 at the direction of a law enforcement officer having reasonable grounds to
6 believe that the person was driving or in actual physical control of a motor
7 vehicle in this state either:

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

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

11 B. After an arrest a violator shall be requested to submit to and
12 successfully complete any test or tests prescribed by subsection A of this
13 section, and if the violator refuses the violator shall be informed that the
14 violator's license or permit to drive will be suspended or denied for twelve
15 months, or for two years for a second or subsequent refusal within a period
16 of eighty-four months, unless the violator expressly agrees to submit to and
17 successfully completes the test or tests. A failure to expressly agree to
18 the test or successfully complete the test is deemed a refusal. The violator
19 shall also be informed that:

20 1. If the test results show a blood or breath alcohol concentration of
21 0.08 or more, or if the results show a blood or breath alcohol concentration
22 of 0.04 or more and the violator was driving or in actual physical control of
23 a commercial motor vehicle, the violator's license or permit to drive will be
24 suspended or denied for not less than ninety consecutive days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 2. The manner in which the person refused to submit to the test or
16 tests.

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

18 F. On receipt of the certified report of refusal and a copy of the
19 order of suspension and on the effective date stated on the order, the
20 department shall enter the order of suspension on its records unless a
21 written request for a hearing as provided in this section has been filed by
22 the accused person. If the department receives only the certified report of
23 refusal, the department shall notify the person named in the report in
24 writing sent by mail that:

25 1. Fifteen days after the date of issuance of the notice the
26 department will suspend the person's license or permit, driving privilege or
27 nonresident driving privilege.

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

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

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

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

37 3. The affected person's license or permit to drive or right to apply
38 for a license or permit or any nonresident operating privilege will be
39 suspended for twelve months from that date or for two years from that date
40 for a second or subsequent refusal within a period of eighty-four months.

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

1 H. The order for suspension shall:

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

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

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

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

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

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

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

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

33 2. The person was placed under arrest.

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

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

36 L. If the department determines at the hearing to suspend the affected
37 person's privilege to operate a motor vehicle, the suspension provided in
38 this section is effective fifteen days after giving written notice of the
39 suspension, except that the department may issue or extend a temporary
40 license that expires on the effective date of the suspension. If the person
41 is a resident without a license or permit or has an expired license or permit
42 to operate a motor vehicle in this state, the department shall deny to the
43 person the issuance of a license or permit for a period of twelve months
44 after the order of suspension becomes effective or for a period of two years
45 after the order of suspension becomes effective for a second or subsequent
46 refusal within a period of eighty-four months, and may reinstate the person's
47 driving privilege, license, permit, right to apply for a license or permit or

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

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

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

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

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

35 Sec. 11. Section 28-1385, Arizona Revised Statutes, is amended to
36 read:

37 28-1385. Administrative license suspension for driving under
38 the influence or for homicide or assault involving a
39 motor vehicle; report; hearing; summary review;
40 ignition interlock device requirement

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

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

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

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

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

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

14 1. Information that adequately identifies the arrested person.

15 2. A statement of the officer's grounds for belief that the person was
16 driving or in actual physical control of a motor vehicle in violation of
17 section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section
18 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201
19 or 13-1204 involving a motor vehicle.

20 3. A statement that the person was arrested for a violation of section
21 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383
22 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204
23 involving a motor vehicle.

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

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

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

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

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

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

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

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

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

47 D. If the blood alcohol concentration test result is unavailable at
48 the time the test is administered, the result shall be forwarded to the

1 department before the hearing held pursuant to this section in a form
2 prescribed by the director.

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

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

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

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

34 2. Has not been convicted of a violation of section 4-244, paragraph
35 ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four
36 months of the date of commission of the acts out of which the current action
37 arose. The dates of commission of the acts are the determining factor in
38 applying the eighty-four month provision.

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

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

46 H. If the officer does not serve an order of suspension pursuant to
47 subsection C of this section and if the department does not receive the
48 report of the results of the blood or breath alcohol test pursuant to

1 subsection B, paragraph 4 of this section, but subsequently receives the
2 results and the results indicate 0.08 or more alcohol concentration in the
3 person's blood or breath, or a blood or breath alcohol concentration of 0.04
4 or more and the person was driving or in actual physical control of a
5 commercial motor vehicle, the department shall notify the person named in the
6 report in writing sent by mail that fifteen days after the date of issuance
7 of the notice the department will suspend the person's license or permit,
8 driving privilege or nonresident driving privilege. The notice shall also
9 state that the department will provide an opportunity for a hearing and
10 administrative review if the person requests a hearing or review in writing
11 and the request is received by the department within fifteen days after the
12 notice is sent.

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

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

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

29 2. Whether the person was placed under arrest for a violation of
30 section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section
31 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
32 13-1204 involving a motor vehicle.

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

36 (a) 0.08 or more.

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

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

40 5. Whether the test results were accurately evaluated.

41 K. The results of the blood or breath alcohol test shall be admitted
42 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. 12. Section 28-3320, Arizona Revised Statutes, is amended to
37 read:

38 28-3320. Suspension of license for persons under eighteen years
39 of age; notice; definition

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

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

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

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

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

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

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

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

21 8. Until the person's eighteenth birthday on receiving the record of
22 the person's conviction of theft of a motor vehicle pursuant to section
23 13-1802, unlawful use of means of transportation pursuant to section 13-1803
24 or theft of means of transportation pursuant to section 13-1814.

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

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

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

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

43 Sec. 13. Section 28-3322, Arizona Revised Statutes, is amended to
44 read:

45 28-3322. Suspension of license for persons eighteen, nineteen
46 and twenty years of age; definition

47 A. In addition to the grounds for mandatory suspension or revocation
48 provided for in chapters 3, 4 and 5 of this title, the department shall

1 immediately suspend the driver license or privilege to drive or refuse to
2 issue a driver license or privilege to drive of a person who commits a
3 violation of section 4-244, paragraph ~~33~~ 34 while the person is eighteen,
4 nineteen or twenty years of age on receipt of the record of the person's
5 conviction for a violation of section 4-244, paragraph ~~33~~ 34 for a period of
6 two years.

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

11 C. If a person's privilege to drive is restricted as prescribed in
12 subsection B of this section, the department shall issue a special ignition
13 interlock restricted driver license to the person pursuant to section
14 28-1401.

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

19 Sec. 14. Section 28-3511, Arizona Revised Statutes, is amended to
20 read:

21 28-3511. Removal and immobilization or impoundment of vehicle

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

25 1. The person's driving privilege is suspended or revoked for any
26 reason.

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

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

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

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

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

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

47 C. Except as provided in subsection D of this section, while a peace
48 officer has control of the vehicle the peace officer shall cause the removal

1 and either immobilization or impoundment of the vehicle if the peace officer
2 has probable cause to arrest the driver of the vehicle for a violation of
3 section 4-244, paragraph ~~33~~ 34 or section 28-1382 or 28-1383.

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

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

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

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

14 (a) Has a valid driver license.

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

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

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

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

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

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

6 Sec. 15. Section 38-1102, Arizona Revised Statutes, is amended to
7 read:

8 38-1102. Carrying of firearms by peace officers: exceptions:
9 definitions

10 A. ~~This state, a county, a city or town or any other political~~
11 ~~subdivision of this state shall not prohibit~~ NOTWITHSTANDING ANY OTHER LAW
12 AND EXCEPT AS PROVIDED PURSUANT TO SUBSECTION B OF THIS SECTION, a peace
13 officer SHALL NOT BE PROHIBITED from carrying a firearm if the peace officer
14 is in compliance with the firearm requirements prescribed by the Arizona
15 peace officer standards and training board.

16 B. A peace officer may be prohibited from carrying a firearm as
17 follows:

18 1. In a jail, correctional facility or juvenile detention facility.

19 2. By order of:

20 (a) The presiding judge or justice when attending any court that is
21 established pursuant to the constitution of this state or title 12, except if
22 the peace officer is providing court security or responding to an emergency.

23 (b) A justice court when attending the justice court, except if the
24 peace officer is providing court security or responding to an emergency.

25 (c) A municipal court when attending the municipal court, except if
26 the peace officer is providing court security or responding to an emergency.

27 3. When the peace officer is relieved of ~~the peace officer's duties~~
28 DUTY and is under a criminal or administrative investigation.

29 4. When in a secured police facility.

30 5. When consuming alcohol at a licensed liquor establishment operated
31 by this state, a county, a city or town, ~~or~~ or any other political subdivision
32 of this state, except if the peace officer's employing agency authorizes the
33 consumption of alcohol in the performance of the peace officer's duties.

34 6. In a location prohibited by federal law.

1 7. Pursuant to court order.

2 8. Pursuant to any state or federal law that makes the officer a
3 prohibited possessor.

4 9. When in the judgment of the department head, or the department
5 head's designee, the peace officer exhibits any impairment, including any
6 physical or mental impairment that would cause concern for the well-being and
7 safety of the officer, the officer's law enforcement agency, law enforcement
8 agency employees or the community.

9 C. A law enforcement agency that employs a peace officer may establish
10 rules that are consistent with this section. The law enforcement agency may
11 determine the number, type, model, caliber and brand of firearm and the
12 ammunition that is carried by its peace officers on or off duty.

13 D. This section does not create any civil liability for acting or
14 failing to act.

15 E. For the purposes of this section:

16 1. "Firearm" has the same meaning prescribed in section 13-105.

17 2. "Peace officer" has the same meaning prescribed in section 1-215.

18 3. "Relieved of duty" means when a peace officer is no longer required
19 to perform, either temporarily or permanently, the duties for which the
20 officer was employed.

21 4. "Secured police facility" means a building or structure that is
22 used primarily by a public agency and that is not accessible to the general
23 public except by controlled access.

24 Sec. 16. Emergency

25 This act is an emergency measure that is necessary to preserve the
26 public peace, health or safety and is operative immediately as provided by
27 law."

28 Amend title to conform

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