

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2318

AN ACT

AMENDING SECTION 28-672, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-914; AMENDING SECTIONS 28-963, 28-3164 AND 28-3312, ARIZONA REVISED STATUTES; RELATING TO USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-672, Arizona Revised Statutes, is amended to
3 read:

4 28-672. Causing serious physical injury or death by a moving
5 violation; time limitation; penalties; violation;
6 classification; definition

7 A. A person is guilty of causing serious physical injury or death
8 by a moving violation if the person violates any one of the following and
9 the violation results in an accident causing serious physical injury or
10 death to another person:

- 11 1. Section 28-645, subsection A, paragraph 3, subdivision (a).
- 12 2. Section 28-729.
- 13 3. Section 28-771.
- 14 4. Section 28-772.
- 15 5. Section 28-773.
- 16 6. Section 28-792.
- 17 7. Section 28-794.
- 18 8. Section 28-797, subsection F, G, H or I.
- 19 9. Section 28-855, subsection B.
- 20 10. Section 28-857, subsection A.
- 21 11. SECTION 28-914.

22 B. A person who violates this section shall attend and successfully
23 complete traffic survival school educational sessions that are designed to
24 improve the safety and habits of drivers and that are approved by the
25 department. In addition, the court may order the person to perform
26 community restitution.

27 C. The court shall report a conviction for a violation of this
28 section to the department and:

29 1. For a first violation of this section, may direct the department
30 to suspend the person's driving privilege for not more than one hundred
31 eighty days if the violation results in serious physical injury and not
32 more than one year if the violation results in death.

33 2. For a second or subsequent violation of this section within a
34 period of thirty-six months, shall direct the department to suspend the
35 person's driving privilege for one hundred eighty days if the violation
36 results in serious physical injury and one year if the violation results
37 in death.

38 D. If a person's driving privilege is suspended pursuant to any
39 other statute because of an incident involving a violation of this
40 section, the suspension period prescribed in subsection C of this section
41 shall run consecutively with the other suspension period.

42 E. If a person fails to successfully complete traffic survival
43 school educational sessions or perform community restitution pursuant to
44 this section, the court shall notify the department and the department
45 shall promptly suspend the driver license or permit of the driver or the

1 privilege of a nonresident to drive a motor vehicle in this state until
2 the order is satisfied.

3 F. If the person who suffers serious physical injury as a result of
4 a violation of this section appears before the court in which the action
5 is pending at any time before trial and acknowledges receipt of
6 satisfaction for the injury, on payment of the costs incurred, the court
7 shall order that the prosecution be dismissed and the defendant be
8 discharged. The reasons for the order shall be set forth and entered of
9 record, and the order shall be a bar to another prosecution for the same
10 offense.

11 G. Restitution awarded pursuant to section 13-603 as a result of a
12 violation of this section shall not exceed ~~one hundred thousand dollars~~
13 \$100,000.

14 H. A prosecution for a violation of this section must be commenced
15 within two years after actual discovery of the offense by the state or the
16 political subdivision having jurisdiction or discovery by the state or the
17 political subdivision that should have occurred with the exercise of
18 reasonable diligence, whichever first occurs.

19 I. A person who violates this section is guilty of a class 1
20 misdemeanor.

21 J. For the purposes of this section, "serious physical injury" has
22 the same meaning prescribed in section 13-105.

23 Sec. 2. Title 28, chapter 3, article 15, Arizona Revised Statutes,
24 is amended by adding section 28-914, to read:

25 28-914. Use of portable wireless communication device while
26 driving; prohibition; civil penalty; state
27 preemption; definitions

28 A. UNLESS A MOTOR VEHICLE IS PARKED OR STOPPED PURSUANT TO SECTION
29 28-645, SUBSECTION A, PARAGRAPH 3 OR SECTION 28-851, A PERSON MAY NOT
30 OPERATE A MOTOR VEHICLE ON A STREET OR HIGHWAY IF THE PERSON DOES EITHER
31 OF THE FOLLOWING:

32 1. PHYSICALLY HOLDS OR SUPPORTS WITH ANY PART OF THE PERSON'S BODY
33 EITHER OF THE FOLLOWING:

34 (a) A PORTABLE WIRELESS COMMUNICATION DEVICE, EXCEPT THAT A PERSON
35 MAY USE A PORTABLE WIRELESS COMMUNICATION DEVICE WITH AN EARPIECE,
36 HEADPHONE DEVICE OR DEVICE WORN ON A WRIST TO CONDUCT A VOICE-BASED
37 COMMUNICATION.

38 (b) A STAND-ALONE ELECTRONIC DEVICE.

39 2. WRITES, SENDS OR READS ANY TEXT-BASED COMMUNICATION, INCLUDING A
40 TEXT MESSAGE, INSTANT MESSAGE, E-MAIL OR INTERNET DATA, ON A PORTABLE
41 WIRELESS COMMUNICATION DEVICE OR STAND-ALONE ELECTRONIC DEVICE. THIS
42 PARAGRAPH DOES NOT APPLY TO EITHER OF THE FOLLOWING:

43 (a) THE USE OF VOICE-BASED COMMUNICATIONS, INCLUDING THROUGH THE
44 USE OF A PORTABLE WIRELESS COMMUNICATION DEVICE OR STAND-ALONE ELECTRONIC

1 DEVICE, TO DIRECT THE WRITING, SENDING, READING OR OTHER COMMUNICATING OF
2 ANY TEXT-BASED COMMUNICATION.

3 (b) THE USE OF A PORTABLE WIRELESS COMMUNICATION DEVICE OR
4 STAND-ALONE DEVICE WHEN USED IN A HANDS-FREE MANNER FOR:

5 (i) NAVIGATION OF THE MOTOR VEHICLE.

6 (ii) USE OF A GLOBAL POSITIONING SYSTEM.

7 (iii) OBTAINING MOTOR VEHICLE INFORMATION OR INFORMATION RELATED TO
8 DRIVING A MOTOR VEHICLE.

9 B. THIS SECTION DOES NOT PROHIBIT THE OPERATION OF A MOTOR VEHICLE
10 WHILE USING A DEVICE, INCLUDING A DEVICE THAT IS ACCESSIBLE THROUGH AN
11 INTERFACE THAT IS EMBEDDED IN A MOTOR VEHICLE, THAT ALLOWS COMMUNICATION
12 WITHOUT THE USE OF EITHER OF THE DRIVER'S HANDS, EXCEPT TO ACTIVATE OR
13 DEACTIVATE A FUNCTION OF THE DEVICE.

14 C. THIS SECTION DOES NOT APPLY TO:

15 1. AN OPERATOR OF AN AUTHORIZED EMERGENCY, LAW ENFORCEMENT OR
16 PROBATION VEHICLE WHO USES A PORTABLE WIRELESS COMMUNICATION DEVICE WHILE
17 ACTING IN AN OFFICIAL CAPACITY.

18 2. AN OPERATOR WHO IS LICENSED BY THE FEDERAL COMMUNICATIONS
19 COMMISSION WHILE OPERATING A RADIO FREQUENCY DEVICE OTHER THAN A PORTABLE
20 WIRELESS COMMUNICATION DEVICE.

21 3. AN OPERATOR WHO USES A TWO-WAY RADIO OR PRIVATE LAND MOBILE
22 RADIO SYSTEM, WITHIN THE MEANING OF 47 CODE OF FEDERAL REGULATIONS PART
23 90, WHILE IN THE PERFORMANCE AND SCOPE OF THE OPERATOR'S WORK-RELATED
24 DUTIES AND WHO IS OPERATING A FLEET VEHICLE OR WHO POSSESSES A COMMERCIAL
25 DRIVER LICENSE.

26 4. AN OPERATOR WHO USES A PORTABLE WIRELESS COMMUNICATION DEVICE
27 EITHER:

28 (a) TO REPORT ILLEGAL ACTIVITY OR SUMMON EMERGENCY HELP.

29 (b) THAT WAS PERMANENTLY OR TEMPORARILY AFFIXED TO THE MOTOR
30 VEHICLE TO RELAY INFORMATION IN THE COURSE OF THE OPERATOR'S OCCUPATIONAL
31 DUTIES BETWEEN THE OPERATOR AND EITHER:

32 (i) A DISPATCHER.

33 (ii) A DIGITAL NETWORK OR SOFTWARE APPLICATION SERVICE.

34 D. BEGINNING JANUARY 1, 2021, A PERSON WHO VIOLATES THIS SECTION IS
35 SUBJECT TO A CIVIL PENALTY AS FOLLOWS:

36 1. AT LEAST \$75 BUT NOT MORE THAN \$149 FOR A FIRST VIOLATION.

37 2. AT LEAST \$150 BUT NOT MORE THAN \$250 FOR A SECOND OR SUBSEQUENT
38 VIOLATION.

39 E. THE DEPARTMENT SHALL POST A SIGN AT EACH POINT AT WHICH AN
40 INTERSTATE HIGHWAY OR UNITED STATES HIGHWAY ENTERS INTO THIS STATE THAT
41 INFORMS AN OPERATOR THAT BOTH:

42 1. THE USE OF A PORTABLE WIRELESS COMMUNICATION DEVICE WHILE
43 OPERATING A MOTOR VEHICLE IS PROHIBITED IN THIS STATE.

1 2. THE OPERATOR IS SUBJECT TO A CIVIL PENALTY IF THE OPERATOR USES
2 A PORTABLE WIRELESS COMMUNICATION DEVICE IN VIOLATION OF THIS SECTION
3 WHILE OPERATING A MOTOR VEHICLE IN THIS STATE.

4 F. A PEACE OFFICER WHO STOPS A MOTOR VEHICLE FOR AN ALLEGED
5 VIOLATION OF THIS SECTION MAY NOT:

6 1. TAKE POSSESSION OF OR OTHERWISE INSPECT A PORTABLE WIRELESS
7 COMMUNICATION DEVICE IN THE POSSESSION OF THE OPERATOR UNLESS OTHERWISE
8 AUTHORIZED BY LAW.

9 2. ISSUE A CITATION FOR A VIOLATION OF THIS SECTION BEFORE
10 JANUARY 1, 2021 AND MAY ISSUE ONLY A WARNING BEGINNING ON THE EFFECTIVE
11 DATE OF THIS SECTION THROUGH DECEMBER 31, 2020.

12 G. EXCEPT AS PROVIDED IN SECTION 28-3312, A DEPARTMENT OR AGENCY OF
13 THIS STATE MAY NOT CONSIDER A VIOLATION OF THIS SECTION FOR THE PURPOSE OF
14 DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR
15 REVOKED.

16 H. THE REGULATION AND USE OF PORTABLE WIRELESS COMMUNICATION
17 DEVICES WHILE OPERATING A MOTOR VEHICLE ARE OF STATEWIDE CONCERN. FROM
18 AND AFTER DECEMBER 31, 2020, THE REGULATION OF PORTABLE WIRELESS
19 COMMUNICATION DEVICES PURSUANT TO THIS SECTION AND THEIR USE WHILE
20 OPERATING A MOTOR VEHICLE IS NOT SUBJECT TO FURTHER REGULATION BY A
21 COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE. FROM AND
22 AFTER DECEMBER 31, 2020, A REGULATION BY A COUNTY, CITY, TOWN OR OTHER
23 POLITICAL SUBDIVISION THAT VIOLATES THIS SUBSECTION, WHETHER ENACTED
24 BEFORE OR AFTER JANUARY 1, 2021, IS VOID.

25 I. FOR THE PURPOSES OF THIS SECTION:

26 1. "PORTABLE WIRELESS COMMUNICATION DEVICE":

27 (a) MEANS A CELLULAR TELEPHONE, A PORTABLE TELEPHONE, A
28 TEXT-MESSAGING DEVICE, A PERSONAL DIGITAL ASSISTANT, A STAND-ALONE
29 COMPUTER, A GLOBAL POSITIONING SYSTEM RECEIVER OR A SUBSTANTIALLY SIMILAR
30 PORTABLE WIRELESS DEVICE THAT IS USED TO INITIATE OR RECEIVE
31 COMMUNICATION, INFORMATION OR DATA.

32 (b) DOES NOT INCLUDE A RADIO, CITIZENS BAND RADIO, CITIZENS BAND
33 RADIO HYBRID, COMMERCIAL TWO-WAY RADIO COMMUNICATION DEVICE OR ITS
34 FUNCTIONAL EQUIVALENT, SUBSCRIPTION-BASED EMERGENCY COMMUNICATION DEVICE,
35 PRESCRIBED MEDICAL DEVICE, AMATEUR OR HAM RADIO DEVICE OR IN-VEHICLE
36 SECURITY, NAVIGATION OR REMOTE DIAGNOSTICS SYSTEM.

37 2. "STAND-ALONE ELECTRONIC DEVICE" MEANS A PORTABLE DEVICE OTHER
38 THAN A PORTABLE WIRELESS COMMUNICATION DEVICE THAT STORES AUDIO OR VIDEO
39 DATA FILES TO BE RETRIEVED ON DEMAND BY A USER.

1 Sec. 3. Section 28-963, Arizona Revised Statutes, is amended to
2 read:

3 28-963. Image display device; prohibition; exceptions;
4 definition

5 A. ~~A~~ WHILE A PERSON IS DRIVING A MOTOR VEHICLE AND THE MOTOR
6 VEHICLE IS IN MOTION ON A PUBLIC ROADWAY OR ON AN OFF-HIGHWAY VEHICLE
7 TRAIL AS DEFINED IN SECTION 28-1171, THE person shall not:

8 1. View a broadcast television image or a visual image from an
9 image display device ~~while that person is driving a motor vehicle and the~~
10 ~~motor vehicle is in motion on a public roadway or on an off-highway~~
11 ~~vehicle trail as defined in section 28-1171~~ WITHIN THE MOTOR VEHICLE
12 UNLESS THE VISUAL IMAGE IS A STATIC BACKGROUND IMAGE OR IMAGERY IN SUPPORT
13 OF MAPPING SERVICES OR APPLICATIONS.

14 2. WATCH A VIDEO OR MOVIE ON A PORTABLE WIRELESS COMMUNICATION
15 DEVICE OR STAND-ALONE ELECTRONIC DEVICE OTHER THAN WATCHING DATA RELATED
16 TO THE NAVIGATION OF THE MOTOR VEHICLE, EXCEPT THAT A PERSON MAY VIEW DATA
17 RELATED TO THE NAVIGATION OF THE MOTOR VEHICLE, VEHICLE INFORMATION OR
18 INFORMATION RELATED TO DRIVING A MOTOR VEHICLE.

19 3. RECORD OR BROADCAST A VIDEO ON A PORTABLE WIRELESS COMMUNICATION
20 DEVICE OR STAND-ALONE ELECTRONIC DEVICE, EXCEPT THAT THE PERSON MAY USE
21 THE DEVICES FOR THE SOLE PURPOSE OF CONTINUOUSLY RECORDING OR BROADCASTING
22 VIDEO WITHIN OR OUTSIDE OF THE MOTOR VEHICLE.

23 B. A person shall not operate a motor vehicle with an image display
24 device that is visible to a driver seated in a normal driving position
25 when the vehicle is in motion.

26 C. This section does not apply to any of the following:

27 1. Emergency vehicles.

28 2. Image display devices that do any of the following:

29 (a) Display images that provide a driver with navigation and
30 related traffic, road and weather information.

31 (b) Provide vehicle information, controls or information related to
32 driving a vehicle.

33 (c) Enhance or supplement a driver's view of the area to the front,
34 rear or side of the vehicle.

35 (d) Permit a driver to monitor the vehicle occupants seated behind
36 the driver.

37 (e) Display information intended to enhance traffic safety.

38 3. Image display devices that are built into the motor vehicle and
39 that do not display images to a driver while the vehicle is in motion.

40 4. Image display devices that are portable and are not used to
41 display dynamic visual images other than for purposes of navigation or
42 global positioning to a driver while the vehicle is in motion.

43 5. Image display devices present in vehicles of a public service
44 corporation or any political subdivision of this state and used for
45 service or maintenance of its facilities.

1 6. Any use of an image display device while the vehicle is parked.

2 D. For the purposes of this section: ~~—~~

3 1. "Image display device" means equipment capable of displaying to
4 the driver of a motor vehicle rapidly changing images that are either of
5 the following:

6 ~~1.~~ (a) A broadcast television image or similar entertainment
7 content transmitted by other wireless means to the image display device.

8 ~~2.~~ (b) A dynamic visual image, other than text, from a digital
9 video disc or other storage device.

10 2. "PORTABLE WIRELESS COMMUNICATION DEVICE" HAS THE SAME MEANING
11 PRESCRIBED IN SECTION 28-914.

12 3. "STAND-ALONE ELECTRONIC DEVICE" HAS THE SAME MEANING PRESCRIBED
13 IN SECTION 28-914.

14 Sec. 4. Section 28-3164, Arizona Revised Statutes, is amended to
15 read:

16 28-3164. Original applicants; examination

17 A. The department may do any of the following:

18 1. Examine an applicant for an original driver license.

19 2. Accept the examination conducted by an authorized third party
20 pursuant to chapter 13 of this title. Beginning July 1, 2014, the third
21 party must be authorized pursuant to section 28-5101.01 or 28-5101.03.

22 3. Accept documentation of successful completion of a driver
23 training course approved by the department. Beginning July 1, 2014, for a
24 class D or G license the documentation must be provided by a third party
25 authorized pursuant to section 28-5101.02.

26 4. Accept documentation that the applicant has successfully
27 completed education on special performance equipment and medically related
28 driving circumstances. Beginning July 1, 2014, the documentation must be
29 provided by a third party authorized pursuant to section 28-5101.02.

30 5. Accept documentation that the applicant has successfully
31 completed driver education lessons provided by an instructor who is
32 certified by the superintendent of public instruction.

33 B. The examination shall include all of the following:

34 1. A test of the applicant's:

35 (a) Eyesight.

36 (b) Ability to read and understand official traffic control
37 devices.

38 (c) Knowledge of safe driving practices and the traffic laws of
39 this state, including those practices and laws relating to bicycles.

40 (d) KNOWLEDGE OF THE EFFECT OF USING A PORTABLE WIRELESS
41 COMMUNICATION DEVICE AS DEFINED IN SECTION 28-914 OR ENGAGING IN OTHER
42 ACTIONS THAT COULD DISTRACT A DRIVER ON THE SAFE OR EFFECTIVE OPERATION OF
43 A MOTOR VEHICLE.

44 2. An actual demonstration of ability to exercise ordinary and
45 reasonable control in the operation of a vehicle or vehicle combination of

1 the type covered by the license classification or endorsement for which
2 the applicant applies.

3 3. Other physical and mental examinations if the department finds
4 them necessary to determine the applicant's fitness to safely operate a
5 motor vehicle on the highways.

6 C. The department may examine an original applicant for a class M
7 license or a motorcycle endorsement or the department may accept the
8 examination conducted by an authorized third party pursuant to chapter 13,
9 article 1 of this title or documentation of successful completion of a
10 motorcycle training program approved by the department. Beginning July 1,
11 2014, the documentation of successful completion of a motorcycle training
12 program must be provided by a third party motorcycle driver license
13 training provider authorized pursuant to section 28-5101.02 or a
14 motorcycle training program approved by the department and provided in
15 another state or by the United States military. The department may
16 examine an applicant who has a motorcycle license from another
17 jurisdiction. This examination shall be the same as for all applicants,
18 except that the department may make modifications it finds necessary to
19 determine the applicant's fitness to operate a motorcycle, motor driven
20 cycle or moped on the highways.

21 D. The department shall examine a person who holds a driver license
22 issued by another country and who applies for an initial license in this
23 state as an original applicant, except that the department may waive an
24 actual demonstration of the ability to exercise ordinary and reasonable
25 control in the operation of a motor vehicle if the person applies for a
26 class D or G license and appears to meet the department's medical
27 qualifications and if the out-of-state license is not revoked or is not
28 expired for more than one year.

29 E. The department may waive the driving examination for initial
30 applicants for a class M license or a motorcycle endorsement if all of the
31 following conditions exist:

32 1. The applicant's current license indicates the applicant has been
33 specifically licensed to operate a motorcycle.

34 2. The applicant appears to meet the department's medical
35 qualifications.

36 3. The applicant's out-of-state license is not revoked or is not
37 expired for more than one year.

38 Sec. 5. Section 28-3312, Arizona Revised Statutes, is amended to
39 read:

40 28-3312. Mandatory disqualification of commercial driver
41 licenses; definition

42 A. The department shall disqualify a person who is required to have
43 a commercial driver license, who is a commercial driver license holder or
44 who is a commercial instruction permit holder from driving a commercial
45 motor vehicle as follows:

1 1. Except as provided in subsection E of this section and except as
2 otherwise provided in this subsection, for at least one year if a person:
3 (a) Refuses a test in violation of section 28-1321.
4 (b) Is convicted of a first violation of any of the following:
5 (i) Driving a commercial motor vehicle under the influence of
6 intoxicating liquor or a controlled substance or while having an alcohol
7 concentration of 0.04 or more.
8 (ii) Leaving the scene of an accident involving a motor vehicle
9 driven by the person.
10 (iii) Using a motor vehicle in the commission of a felony.
11 (iv) A violation of chapter 4, article 3 of this title while
12 operating a noncommercial motor vehicle.
13 (v) Driving a commercial motor vehicle while, as a result of prior
14 violations of this title committed while operating a commercial motor
15 vehicle, the person's commercial driver license is revoked, suspended or
16 canceled or the person is disqualified from operating a commercial motor
17 vehicle.
18 (vi) Causing a fatality through the negligent operation of a
19 commercial motor vehicle, including a conviction of manslaughter, homicide
20 or negligent homicide resulting from operation of a motor vehicle.
21 2. For at least three years, if the person is convicted of any of
22 the violations prescribed in paragraph 1 of this subsection and the
23 violation occurred while the person was transporting a hazardous material
24 in the quantity and under the circumstances that require placarding of the
25 transport vehicle under the department's safety rules pursuant to chapter
26 14 of this title.
27 3. For the life of the person, if the person is convicted of two or
28 more violations of any of the offenses prescribed in paragraph 1 of this
29 subsection or of any combination of those offenses arising from two or
30 more separate incidents. The department shall consider only offenses
31 committed from and after December 31, 1989 in applying this paragraph.
32 4. Permanently if the person is convicted of using any motor
33 vehicle in the commission of a felony involving the manufacture,
34 distribution or dispensing of a controlled substance or possession with
35 intent to manufacture, distribute or dispense a controlled substance.
36 5. For at least sixty consecutive days, if the person is convicted
37 of two serious traffic violations committed in a motor vehicle arising
38 from separate incidents occurring within a three year period from the date
39 of the violation.
40 6. For at least one hundred twenty days served in addition to any
41 other disqualification, if the person is convicted of a third or
42 subsequent serious traffic violation committed in a motor vehicle arising
43 from separate incidents occurring within a three year period from the date
44 of the violation.

1 7. For at least sixty consecutive days, if the department
2 determines that the person falsified information or documentation as part
3 of the licensing process.

4 8. For at least one year, if the person is convicted of fraud
5 related to the issuance of a commercial instruction permit or commercial
6 driver license.

7 B. Except as provided in subsection C of this section, a person
8 required to have a commercial driver license or a commercial driver
9 license holder who is found responsible for violating an out-of-service
10 order pursuant to section 28-5241 is disqualified from driving a
11 commercial motor vehicle as follows:

12 1. For a period of one hundred eighty days if the person is found
13 responsible for a first violation of an out-of-service order.

14 2. For a period of two years if the person is found responsible for
15 a second violation of any out-of-service order during any ten year period
16 arising from separate incidents.

17 3. For a period of three years if the person is found responsible
18 for a third or subsequent violation of any out-of-service order during any
19 ten year period arising from separate incidents.

20 C. A person required to have a commercial driver license or a
21 commercial driver license holder who is found responsible for violating an
22 out-of-service order pursuant to section 28-5241 while transporting
23 hazardous materials or while operating a commercial motor vehicle designed
24 or used to transport sixteen or more passengers, including the driver, is
25 disqualified from driving a commercial motor vehicle as follows:

26 1. For a period of one hundred eighty days if the person is found
27 responsible for a first violation of an out-of-service order.

28 2. For a period of three years if the person is found responsible
29 for a second or subsequent violation of any out-of-service order during
30 any ten year period arising from separate incidents.

31 D. A person required to have a commercial driver license or a
32 commercial driver license holder who is convicted of or found responsible
33 for violating any federal, state or local railroad grade crossing law,
34 ordinance or regulation is disqualified from driving a commercial motor
35 vehicle as follows:

36 1. For a period of sixty days if a person is convicted of or found
37 responsible for a first violation.

38 2. For a period of one hundred twenty days if a person is convicted
39 of or found responsible for a second violation during any three year
40 period.

41 3. For a period of one year if a person is convicted of or found
42 responsible for a third or subsequent violation during any three year
43 period.

44 E. If a federal agency determines that a commercial motor vehicle
45 licensee is driving in a manner that constitutes an imminent hazard, the

1 department, on receipt of notification by the federal government, shall
2 disqualify the driver for a period not to exceed one year. The
3 disqualification shall run concurrently with any other disqualification
4 imposed on the driver. For the purposes of this subsection, "imminent
5 hazard" means the existence of a condition that presents a substantial
6 likelihood that death, serious illness, severe personal injury or a
7 substantial endangerment to health, property or the environment may occur
8 before the reasonably foreseeable completion date of a formal proceeding
9 to decrease the risk of death, illness, injury or endangerment.

10 F. The department shall keep records of findings of responsibility
11 for a civil traffic violation and of conviction of any moving criminal
12 traffic violation for a commercial driver licensee for violations in any
13 type of motor vehicle and for a person required to have a commercial
14 driver license if the violations arise from the operation of a commercial
15 motor vehicle. The department shall make the records available to other
16 states, the United States secretary of transportation, the driver and any
17 motor carrier or prospective motor carrier or the motor carrier's
18 designated agent within ten days after receiving a report of a conviction
19 or finding of responsibility in this state or receipt of a report of a
20 conviction or finding of responsibility or disqualification received from
21 another state.

22 G. Disqualification for a serious traffic violation committed by a
23 commercial driver license holder while operating a noncommercial motor
24 vehicle applies only if the conviction results in the revocation,
25 cancellation or suspension of the person's commercial driver license or
26 noncommercial driver license.

27 H. The department may adopt rules establishing guidelines and
28 conditions under which the department may reduce a disqualification for
29 life pursuant to subsection A, paragraph 3 of this section to a
30 disqualification of at least ten years. If a person's disqualification is
31 reduced pursuant to rules adopted pursuant to this subsection and the
32 person is subsequently convicted of a violation described in subsection A,
33 paragraph 1 of this section, the person is permanently disqualified from
34 driving a commercial vehicle and is not eligible to apply for a reduction
35 of the disqualification pursuant to rules adopted pursuant to this
36 subsection.

37 I. Except as provided in subsection E of this section, the
38 beginning date of the disqualification shall be ten days after the date
39 the department receives the report of conviction or finding of
40 responsibility.

41 J. For the purposes of this section, "serious traffic violation"
42 means a conviction or finding of responsibility for any of the following:

43 1. Excessive speeding involving a single offense for a speed of
44 fifteen miles per hour or more above the posted speed limit.

45 2. Reckless driving as provided by section 28-693.

- 1 3. Aggressive driving as provided by section 28-695.
2 4. Racing as defined in section 28-708.
3 5. Improper or erratic traffic lane changes as provided by section
4 28-729.
5 6. Following the vehicle ahead too closely as provided by section
6 28-730.
7 7. A violation of this title that is connected with a fatal traffic
8 accident.
9 8. Driving a commercial motor vehicle if the person has not been
10 issued a valid commercial driver license pursuant to this chapter.
11 9. Driving a commercial motor vehicle without a commercial driver
12 license in the person's possession.
13 10. Driving a commercial motor vehicle without having a valid
14 endorsement for the type of commercial motor vehicle or motor vehicle
15 combination being operated.
16 11. DRIVING A COMMERCIAL MOTOR VEHICLE WHILE USING A PORTABLE
17 WIRELESS COMMUNICATION DEVICE AS PROVIDED BY SECTION 28-914.
18 Sec. 6. Use of portable wireless communication device while
19 driving; local authority laws
20 A. If, before the effective date of this act, a local authority
21 enacts a law regulating the use of a portable wireless communication
22 device, as defined in section 28-914, Arizona Revised Statutes, as added
23 by this act, while driving, the local authority may:
24 1. Issue citations for violations under the local authority's law
25 through December 31, 2020, and the local authority is not subject to the
26 warning period prescribed in section 28-914, Arizona Revised Statutes, as
27 added by this act.
28 2. Change the local authority's law to mirror section 28-914,
29 Arizona Revised Statutes, as added by this act, except that the local
30 authority is not subject to the warning period prescribed in section
31 28-914, Arizona Revised Statutes, as added by this act.
32 B. A local authority that before the effective date of this act has
33 not enacted a law regulating the use of a portable wireless communication
34 device, as defined in section 28-914, Arizona Revised Statutes, as added
35 by this act, while driving may adopt a law to mirror section 28-914,
36 Arizona Revised Statutes, as added by this act.
37 Sec. 7. Emergency
38 This act is an emergency measure that is necessary to preserve the
39 public peace, health or safety and is operative immediately as provided by
40 law.