

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

## **HB 2053**

Introduced by  
Representatives Cooley: Carruthers, Hatch-Miller, Huppenthal, Knaperek,  
Senator Martin

AN ACT

AMENDING SECTIONS 13-907, 28-3005, 28-3158, 28-3174, 28-3312 AND 28-3315,  
ARIZONA REVISED STATUTES; RELATING TO DRIVER LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-907, Arizona Revised Statutes, is amended to  
3 read:

4 13-907. Setting aside judgment of convicted person on  
5 discharge; making of application; release from  
6 disabilities; exceptions

7 A. Except as provided in subsection B of this section, every person  
8 convicted of a criminal offense may, upon fulfillment of the conditions of  
9 probation or sentence and discharge by the court, apply to the judge, justice  
10 of the peace or magistrate who pronounced sentence or imposed probation or  
11 such judge, justice of the peace or magistrate's successor in office to have  
12 the judgment of guilt set aside. The convicted person shall be informed of  
13 this right at the time of discharge. The application to set aside the  
14 judgment may be made by the convicted person or by the convicted person's  
15 attorney or probation officer authorized in writing. If the judge, justice  
16 of the peace or magistrate grants the application, the judge, justice of the  
17 peace or magistrate shall set aside the judgment of guilt, dismiss the  
18 accusations or information and order that the person be released from all  
19 penalties and disabilities resulting from the conviction other than those  
20 imposed by the department of transportation ~~pursuant to section 28-3304,~~  
21 ~~28-3306, 28-3307 or 28-3308~~, except that the conviction may be used as a  
22 conviction if such conviction would be admissible had it not been set aside  
23 and may be pleaded and proved in any subsequent prosecution of such person by  
24 the state or any of its subdivisions for any offense or used by the  
25 department of transportation ~~in enforcing the provisions of section 28-3304,~~  
26 ~~28-3306, 28-3307 or 28-3308~~ as if the judgment of guilt had not been set  
27 aside.

28 B. This section does not apply to a person convicted of a criminal  
29 offense:

- 30 1. Involving the infliction of serious physical injury.
- 31 2. Involving the use or exhibition of a deadly weapon or dangerous  
32 instrument.
- 33 3. In violation of chapter 14 of this title.
- 34 4. In which the victim is a minor under fifteen years of age.
- 35 5. In violation of section 28-3473, any local ordinance relating to  
36 stopping, standing or operation of a vehicle or title 28, chapter 3, except a  
37 violation of section 28-693 or any local ordinance relating to the same  
38 subject matter as section 28-693.

39 Sec. 2. Section 28-3005, Arizona Revised Statutes, is amended to read:

40 28-3005. Medical or psychological reports; immunity;  
41 definitions

42 A. A physician, psychologist or certified substance abuse counselor  
43 who provides information to the director in good faith and at the written  
44 request of a driver license applicant or licensee concerning a person's  
45 medical or psychological condition with respect to operation of a motor

1 vehicle is immune from personal liability with respect to the information  
2 provided.

3 B. Notwithstanding the physician-patient or psychologist-client  
4 confidentiality relationship, a physician or psychologist may voluntarily  
5 report a patient to the department who has a medical or psychological  
6 condition that in the opinion of the physician or psychologist could  
7 significantly impair the person's ability to safely operate a motor vehicle.  
8 If a report is made, the physician or psychologist shall make the report in  
9 writing, including the name, address and date of birth of the patient. On  
10 receipt of the report, the department may require an examination of the  
11 person reported in the manner provided by section 28-3314. A person shall  
12 not bring an action against a physician or psychologist for not making a  
13 report pursuant to this subsection. The physician or psychologist submitting  
14 the report in good faith is immune from civil or criminal liability for  
15 making the report pursuant to this subsection. The physician's or  
16 psychologist's report is subject to subpoena or order to produce in an action  
17 except an action against the physician or psychologist submitting the report.

18 C. In this section:

19 1. "Certified substance abuse counselor" means a person who is  
20 certified by the board of behavioral health examiners in this state, who is  
21 certified in ~~a contiguous~~ ANOTHER state, who is certified by a board for  
22 certification of addiction counselors, who is a nationally certified  
23 addiction counselor or who is employed by the federal government and  
24 practicing in this state.

25 2. "Medical or psychological condition" means a condition that could  
26 affect a person's functional ability to safely operate a motor vehicle.

27 3. "Physician" means a medical doctor, optometrist, chiropractor,  
28 naturopathic physician, doctor of osteopathy or doctor of homeopathy who is  
29 licensed to practice in this state or ~~a state contiguous to this~~ ANOTHER  
30 state or who is employed by the federal government and practicing in this  
31 state or their agents.

32 4. "Psychologist" means a person who is licensed pursuant to title 32,  
33 chapter 19.1, who is licensed to practice psychology in ~~a state contiguous to~~  
34 ~~this~~ ANOTHER state or who is employed by the federal government and  
35 practicing in this state.

36 Sec. 3. Section 28-3158, Arizona Revised Statutes, is amended to read:  
37 28-3158. Driver license or instruction permit application

38 A. A person who applies for an instruction permit or for a driver  
39 license shall use a form ~~furnished~~ PRESCRIBED OR AUTHORIZED by the  
40 department.

41 B. An applicant shall pay the fee prescribed by section 28-3002 for a  
42 driver license or for an instruction permit issued under section 28-3154,  
43 28-3155, 28-3156 or 28-3225. Payment of the fee required by this section  
44 entitles the applicant to not more than three attempts to pass the written  
45 examination or road test within twelve months from the date of the

1 application. The department shall refund an application fee pursuant to  
2 section 28-373. An applicant who submits documentation of successful  
3 completion of a driver education course approved by the department is not  
4 required to take the road test.

5 C. An applicant for an instruction permit or a driver license shall  
6 give the department satisfactory proof of the applicant's full legal name,  
7 date of birth, sex and residence address and that the applicant's presence in  
8 the United States is authorized under federal law.

9 D. The application for an instruction permit or a driver license shall  
10 state the following:

11 1. A brief description of the applicant and any other identifying  
12 information required by the department.

13 2. Whether the applicant has been licensed, and if so, the type of  
14 license issued, when the license was issued and what state or country issued  
15 the license.

16 3. Whether the license was suspended or revoked or whether an  
17 application was ever refused, and if so, the date of and reason for the  
18 suspension, revocation or refusal.

19 4. If the applicant was never licensed, the applicant's last previous  
20 state or country of residence.

21 5. The social security number of the applicant unless the application  
22 is for a nonresident commercial driver license OR THE APPLICANT PROVIDES  
23 EVIDENCE SATISFACTORY TO THE DIRECTOR THAT THE APPLICANT DOES NOT HAVE A  
24 SOCIAL SECURITY NUMBER.

25 E. The department shall:

26 1. Verify that a social security number provided by an applicant is a  
27 valid number assigned to that applicant.

28 2. Retain the social security number in its records.

29 F. The social security number provided to the department pursuant to  
30 subsection D of this section for an applicant's driver license or instruction  
31 permit shall not appear on an applicant's driver license or instruction  
32 permit unless the applicant requests that the social security number appear  
33 on the applicant's driver license or instruction permit as the driver license  
34 or instruction permit number. Except as provided in sections 28-450 and  
35 41-1954, the department shall not release the social security number to any  
36 person unless the applicant requests that the social security number appear  
37 on the applicant's driver license or instruction permit as the driver license  
38 or instruction permit number. The provisions of this subsection shall be  
39 included in each application.

40 G. The department may adopt and implement procedures to deny a driver  
41 license or instruction permit to a person who has been deported. The  
42 department may adopt and implement procedures to reinstate a person's  
43 privilege to apply for a driver license or permit if the person's legal  
44 presence status is restored.

1 H. On request of an applicant, the department shall allow the  
2 applicant to provide on the license or permit a post office box address that  
3 is regularly used by the applicant.

4 I. The department may request an applicant who appears in person for a  
5 license, a duplicate license or reinstatement of a driving privilege to  
6 complete satisfactorily the vision screening prescribed by the department.

7 Sec. 4. Section 28-3174, Arizona Revised Statutes, is amended to read:  
8 28-3174. Class G driver licenses; motorcycles

9 A. A person who is under eighteen years of age may apply to the  
10 department for a class G driver license if all of the following apply:

11 1. The person is at least sixteen years of age.

12 2. The person has a valid instruction permit issued pursuant to this  
13 article and the person has held the instruction permit for at least five  
14 months, except that this requirement does not apply to a person who has a  
15 currently valid driver license issued by another jurisdiction.

16 3. Either:

17 (a) The person has satisfactorily completed a driver education program  
18 that is approved by the department of transportation. If the driver  
19 education program is offered by a public high school, the program shall be  
20 approved by the department of transportation in consultation with the  
21 department of education.

22 (b) A custodial parent or guardian of the person certifies in writing  
23 to the department that the applicant has completed at least twenty-five hours  
24 of supervised driving practice and that at least five of the required  
25 practice hours were at night.

26 B. If the applicant successfully passes the examination prescribed in  
27 section 28-3164 and satisfies the requirements prescribed in subsection A of  
28 this section, the department may issue a class G driver license to the  
29 applicant.

30 C. A class G driver license entitles the licensee to drive a motor  
31 vehicle that requires a class G license on the public highways.

32 D. A person who holds a class G driver license may apply for a class D  
33 license on or after the person's eighteenth birthday, except that a person  
34 whose class G driver license is suspended pursuant to section 28-3321 is not  
35 entitled to receive a class D driver license until after the suspension  
36 period expires.

37 E. If a person who is under eighteen years of age and at least sixteen  
38 years of age applies for a class M license or a motorcycle endorsement, the  
39 department shall not issue the class M license or motorcycle endorsement to  
40 the person unless both of the following apply:

41 1. The applicant has held an instruction permit issued pursuant to  
42 section 28-3156 for at least five months, **EXCEPT THAT THIS REQUIREMENT DOES**  
43 **NOT APPLY TO A PERSON WHO HAS A CURRENTLY VALID MOTORCYCLE DRIVER LICENSE OR**  
44 **ENDORSEMENT ISSUED BY ANOTHER JURISDICTION.**

45 2. Either:

1 (a) The person has satisfactorily completed a motorcycle driver  
2 education program that is approved by the department. If the driver  
3 education program is offered by a public high school, the program shall be  
4 approved by the department of transportation in consultation with the  
5 department of education.

6 (b) A custodial parent or guardian of the person certifies in writing  
7 to the department that the applicant has completed at least twenty-five hours  
8 of motorcycle driving practice.

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

10 28-3312. Mandatory disqualification of commercial driver  
11 license; definition

12 A. The department shall disqualify a person from driving a commercial  
13 motor vehicle as follows:

14 1. Except as otherwise provided in this subsection, for at least one  
15 year from the date a person is convicted of a first violation of any of the  
16 following:

17 (a) Driving a commercial motor vehicle under the influence of  
18 intoxicating liquor or a controlled substance or while having an alcohol  
19 concentration of 0.04 or more.

20 (b) Leaving the scene of an accident involving a commercial motor  
21 vehicle driven by the person.

22 (c) Using a commercial motor vehicle in the commission of a felony.

23 2. For at least three years, if any of the violations prescribed in  
24 paragraph 1 of this subsection occurred while the person was transporting a  
25 hazardous material in the quantity and under the circumstances that require  
26 placarding of the transport vehicle under the department's safety rules  
27 pursuant to chapter 14 of this title.

28 3. Except as provided in subsection B of this section, for the life of  
29 the person, if the person is convicted of two or more violations of any of  
30 the offenses prescribed in paragraph 1 of this subsection or of any  
31 combination of those offenses arising from two or more separate incidents.  
32 The department shall consider only offenses committed from and after December  
33 31, 1989 in applying this paragraph.

34 4. For the life of the person, if the person uses a commercial motor  
35 vehicle in the commission of a felony involving the manufacture, distribution  
36 or dispensing of a controlled substance or possession with intent to  
37 manufacture, distribute or dispense a controlled substance.

38 5. For at least sixty consecutive days, if the person is convicted of  
39 two serious traffic violations committed in a commercial motor vehicle  
40 arising from separate incidents occurring within a three year period from the  
41 date of the conviction.

42 6. For at least one hundred twenty consecutive days, if the person is  
43 convicted of three serious traffic violations committed in a commercial motor  
44 vehicle arising from separate incidents occurring within a three year period  
45 from the date of the conviction.

1 B. Except as provided in subsection C of this section, a person who is  
2 found responsible for violating an out-of-service order pursuant to section  
3 28-5241 is disqualified from driving a commercial motor vehicle as follows:

4 1. For a period of ninety days if the person is found responsible for  
5 a first violation of an out-of-service order.

6 2. For a period of one year if the person is found responsible for a  
7 second violation of any out-of-service order during any ten year period  
8 arising from separate incidents.

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

12 C. A person who is found responsible for violating an out-of-service  
13 order pursuant to section 28-5241 while transporting hazardous materials or  
14 while operating a commercial motor vehicle designed or used to transport  
15 sixteen or more passengers, including the driver, is disqualified from  
16 driving a commercial motor vehicle as follows:

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

19 2. For a period of two years if the person is found responsible for a  
20 second or subsequent violation of any out-of-service order during any ten  
21 year period arising from separate incidents.

22 D. A PERSON WHO IS CONVICTED OF OR FOUND RESPONSIBLE FOR VIOLATING ANY  
23 FEDERAL, STATE OR LOCAL RAILROAD GRADE CROSSING LAW, ORDINANCE OR REGULATION  
24 IS DISQUALIFIED FROM DRIVING A COMMERCIAL MOTOR VEHICLE AS FOLLOWS:

25 1. FOR A PERIOD OF SIXTY DAYS IF A PERSON IS CONVICTED OF OR FOUND  
26 RESPONSIBLE FOR A FIRST VIOLATION.

27 2. FOR A PERIOD OF ONE HUNDRED TWENTY DAYS IF A PERSON IS CONVICTED OF  
28 OR FOUND RESPONSIBLE FOR A SECOND VIOLATION DURING ANY THREE YEAR PERIOD.

29 3. FOR A PERIOD OF ONE YEAR IF A PERSON IS CONVICTED OF OR FOUND  
30 RESPONSIBLE FOR A THIRD OR SUBSEQUENT VIOLATION DURING ANY THREE YEAR PERIOD.

31 ~~D.~~ E. The department may adopt rules establishing guidelines and  
32 conditions under which the department may reduce a disqualification for life  
33 pursuant to subsection A, paragraph 3 of this section to a disqualification  
34 of at least ten years. IF A PERSON'S DISQUALIFICATION IS REDUCED PURSUANT TO  
35 RULES ADOPTED PURSUANT TO THIS SUBSECTION AND THE PERSON IS SUBSEQUENTLY  
36 DISQUALIFIED PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION, THE  
37 PERSON IS PERMANENTLY DISQUALIFIED FROM DRIVING A COMMERCIAL VEHICLE AND IS  
38 NOT ELIGIBLE TO APPLY FOR A REDUCTION OF THE DISQUALIFICATION PURSUANT TO  
39 RULES ADOPTED PURSUANT TO THIS SUBSECTION.

40 ~~E.~~ F. For purposes of this section, "serious traffic violation" means  
41 a conviction for any of the following:

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

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

45 3. Aggressive driving as provided by section 28-695.

- 1           4. Racing as defined in section 28-708.
- 2           5. Improper or erratic traffic lane changes as provided by section
- 3 28-729.
- 4           6. Following the vehicle ahead too closely as provided by section
- 5 28-730.
- 6           7. A violation of this title that is connected with a fatal traffic
- 7 accident.

8           Sec. 6. Section 28-3315, Arizona Revised Statutes, is amended to read:  
9 28-3315. Period of suspension, revocation or disqualification;  
10 unlicensed drivers

11           A. The department shall not suspend, revoke or disqualify a driver  
12 license or privilege to drive a motor vehicle on the public highways for more  
13 than one year from the date of a conviction or judgment, if any, against a  
14 person for which this chapter makes revocation, suspension or  
15 disqualification mandatory or from the date the notice is sent pursuant to  
16 section 28-3318 if no conviction was involved, except as permitted under  
17 subsection ~~D~~ E of this section and sections 28-1383, 28-3312, 28-3319,  
18 28-3320 and 28-3473.

19           B. A person whose license or privilege to drive a motor vehicle on the  
20 public highways has been revoked may apply for a new license as provided by  
21 law after the cause of the revocation is removed or after expiration of the  
22 revocation period prescribed by law. After the department investigates an  
23 applicant's driving record in this state OR ANOTHER STATE BY EXAMINING  
24 DEPARTMENT RECORDS OR OTHER SUFFICIENT EVIDENCE to determine that all  
25 withdrawal actions are complete, that the applicant has not committed any  
26 traffic violations within twelve months preceding application and that all  
27 other statutory requirements are satisfied, the department may issue a new  
28 license.

29           C. THE DEPARTMENT SHALL NOT ACCEPT AN APPLICATION FOR REINSTATEMENT OF  
30 A DRIVER LICENSE UNTIL AFTER THE TWELVE MONTH PERIOD PRESCRIBED IN SUBSECTION  
31 B OF THIS SECTION HAS ELAPSED.

32           ~~C~~ D. If the revocation is related to alcohol or other drugs, the  
33 person shall provide the department with a current evaluation from a  
34 physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist  
35 licensed pursuant to title 32, chapter 19.1 or a certified substance abuse  
36 counselor as defined in section 28-3005 indicating that, in the opinion of  
37 the physician, psychologist or counselor, the condition does not affect or  
38 impair the person's ability to safely operate a motor vehicle. For the  
39 purposes of reinstating a license or driving privilege pursuant to this  
40 article, the department may rely on the opinion of a physician licensed  
41 pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant  
42 to title 32, chapter 19.1 or a certified substance abuse counselor as defined  
43 in section 28-3005.

44           ~~D~~ E. Notwithstanding subsections A and B of this section:

1           1. A person whose license or privilege to drive is revoked pursuant to  
2 section 28-1383, subsection J or section 28-3304, subsection A, paragraph 1  
3 or 9 is not entitled to have the person's license or privilege renewed or  
4 restored for three years.

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

8           ~~E.~~ F. Except as provided in section 28-3473, if an unlicensed driver  
9 commits an offense for which a driver license could be suspended, revoked or  
10 disqualified, the department shall not accept the unlicensed driver's  
11 application for a driver license for a period equal to the period of time  
12 that applies to a driver with a license. If the offense is one for which a  
13 driver license could be revoked, the department shall not accept the  
14 unlicensed driver's application for a driver license unless it investigates  
15 the character, habits and driving ability of the person and is satisfied that  
16 it is safe to grant the privilege of driving a motor vehicle on the public  
17 highways.

18           ~~F.~~ G. The expiration of a person's license during the period of time  
19 it is under suspension, revocation or disqualification does not invalidate or  
20 terminate the suspension, revocation or disqualification.

21           ~~G.~~ H. A person whose license or privilege to drive a motor vehicle on  
22 the public highways has been suspended pursuant to section 28-3306,  
23 subsection A, paragraph 5 or section 28-3314 may apply for a new license as  
24 provided by law after the cause for suspension is removed or after expiration  
25 of the suspension period prescribed by law if both of the following  
26 conditions are met:

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

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