

STATE OF ARIZONA
 29th LEGISLATURE
 2nd REGULAR SESSION

SENATE

S. B. 147
INTRODUCED
JAN. 28, 1970

Referred to	Date	Reported Out
Rules		

Committee of Whole _____
 3rd Reading — Aye _____ No _____ Absent _____
 House Action _____

 Sent to Governor _____ Action _____

Introduced by Senators Halacy, Jacquin, O'Connor, Gibbings, Tenney, Kret, Holley, Jones, Wilcox, Knoles, Goetze, Baldwin, Conlan, Holsclaw, White

AN ACT

RELATING to Motor Vehicles; Prescribing Weight of Alcohol in Blood for Presumption of Intoxication of Operators, and Amending Section 28-692, Arizona Revised Statutes.

1. **Be it enacted by the Legislature of the State of Arizona:**
2. Section 1, Sec. 28-692, Arizona Revised Statutes, is amended to
3. read:
4. 28-692. PERSONS UNDER THE INFLUENCE OF INTOXICATING
5. LIQUOR OR OF DRUGS; AUTHORIZED TESTERS; DISCLOSURE
6. OF TESTS; ADMISSIBILITY AS EVIDENCE
7. A. It is unlawful and punishable as provided in Section 28-692.01
8. for any person who is under the influence of intoxicating liquor to
9. drive or be in actual physical control of any vehicle within this state.
10. B. In the trial of any civil or criminal action or proceeding for a
11. violation of subsection A of this section relating to driving or being in
12. actual physical control of a vehicle while under the influence of
13. intoxicating liquor, the amount of alcohol in the defendant's blood at
14. the time alleged as shown by chemical analysis of the defendant's
15. blood, urine, breath or other bodily substance shall give rise to the
16. following presumptions:
17. 1. If there was at that time 0.05 per cent or less by weight of
18. alcohol in the defendant's blood, it shall be presumed that the
19. defendant was not under the influence of intoxicating liquor.
20. 2. If there was at that time in excess of 0.05 per cent but less than

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1. *0.10* 0.10 per cent by weight of alcohol in the defendant's blood,
2. such fact shall not give rise to any presumption that the defendant was
3. or was not under the influence of intoxicating liquor, but such fact may
4. be considered with other competent evidence in determining the guilt
5. or innocence of the defendant.

6. 3. If there was at that time *0.10* 0.10 per cent or more by
7. weight of alcohol in the defendant's blood, it shall be presumed that
8. the defendant was under the influence of intoxicating liquor.

9. 4. Paragraphs 1, 2 or 3 of this subsection shall not be construed as
10. limiting the introduction of any other competent evidence bearing
11. upon the question of whether or not the defendant was under the
12. influence of intoxicating liquor.

13. C. Per cent by weight of alcohol in the blood shall be based upon
14. *milligrams* GRAMS of alcohol per one hundred cubic centimeters of
15. blood.

16. D. Chemical analyses of the person's blood, urine, breath, or other
17. bodily substance to be considered valid under the provisions of this
18. section shall have been performed according to methods approved by
19. the state department of health and by a person possessing a valid permit
20. issued by the state department of health for such purpose. The state
21. department of health is authorized to approve satisfactory techniques
22. or methods, to ascertain the qualifications and competence of persons
23. to conduct such analyses, and to issue permits which shall be subject to
24. termination or revocation at the discretion of the state department of
25. health.

26. E. When a person shall submit to a blood or urine test under the
27. provisions of Section 28-691, only a physician or a registered nurse, or
28. other qualified person, other than the arresting officer, may withdraw
29. blood or take the urine specimen for the purpose of determining the
30. alcoholic content therein. Such limitation shall not apply to the taking
31. of breath specimen.

32. F. The person tested may have a physician or a qualified
33. technician, chemist, registered nurse, or other qualified person of his
34. own choosing administer a chemical test or tests in addition to any
35. administered at the direction of a law enforcement officer. The failure
36. or inability to obtain an additional test by a person shall not preclude
37. the admission of evidence relating to the test or tests taken at the
38. direction of a law enforcement officer.

39. G. Upon the request of the person who shall submit to a chemical
40. test or tests, full information concerning the test or tests shall be made
41. available to him or his attorney.

42. H. If a person under arrest refuses to submit to a chemical test
43. under the provisions of Section 28-691, evidence of refusal shall be
44. admissible in any civil or criminal action or proceeding arising out of
45. acts alleged to have been committed while the person was driving or in

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1. actual physical control of a motor vehicle upon the public highways of
2. this state while under the influence of intoxicating liquor.
3. I. It is unlawful and punishable as provided in Section 28-692.01
4. for any person who is an habitual user of or under the influence of any
5. narcotic drug or who is under the influence of any other drug
6. to a degree which renders him incapable of safely driving a vehicle to
7. drive a vehicle within this state. The fact that any person charged with a
8. violation of this subsection is or has been entitled to use such drug
9. under the laws of this state shall not constitute a defense against any
10. charge of violating this subsection.
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