

## Defensive Driving Program - Arizona Revised Statutes

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### 12-114. [Surcharge on court ordered diversion programs for traffic offenses; deposit](#)

A. If a court authorizes individuals charged with civil or criminal traffic offenses to attend a court authorized diversion program, including a defensive driving school program, it shall require the assessment of a nine dollar surcharge on the fees charged by the court authorized diversion programs.

B. A court or a court authorized diversion program shall collect the nine dollar surcharge and remit the surcharge to the supreme court which shall deposit, pursuant to sections 35-146 and 35-147, five dollars of the surcharge in the judicial collection enhancement fund and the remaining four dollars in the peace officer training equipment fund established by section 41-1731.

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### 28-3391. Definition of court

In this article, unless the context otherwise requires, "court" means a juvenile division of the superior court, a justice of the peace court or a municipal court.

### 28-3392. Defensive driving school; eligibility (Effective through 8/31/2019)

#### A. A court:

1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6 through 15 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.

2. Except as prescribed in subsection C of this section, may allow an individual who is issued a citation for a violation of section 28-701.02 to attend a defensive driving school.

B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within twelve months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

#### C. Notwithstanding subsection A of this section:

1. An individual who commits a civil or criminal traffic violation resulting in death or serious physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.

2. If a commercial driver license holder or a driver of a commercial motor vehicle that requires a commercial driver license is found guilty or responsible for a moving violation, the court may require the violator to attend defensive driving school as an element of sentence, but may not dismiss the conviction or finding of responsibility and shall report the conviction or finding of responsibility to the department as prescribed in section 28-1559. A commercial driver license holder or a driver of a commercial motor vehicle that requires a commercial driver license is not eligible for the defensive driving diversion program.

28-3392. Defensive driving school; eligibility (Effective 9/1/2019)

A. A court:

1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6 through 15 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.

2. Except as prescribed in subsection C of this section:

(a) May allow an individual who is issued a citation for a violation of section 28-701.02 to attend a defensive driving school.

(b) Shall allow an individual who holds a commercial driver license and who is issued a citation for a civil traffic moving violation pursuant to chapter 3, article 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 or 15 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article only if the individual was driving a vehicle requiring a class D license or a class M license and the vehicle was not being used for commercial purposes.

B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within twelve months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

C. Notwithstanding subsection A of this section:

1. An individual who commits a civil or criminal traffic violation resulting in death or serious physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.

2. If a driver of a commercial motor vehicle that requires a commercial driver license is found guilty or responsible for a moving violation, the court may require the violator to attend defensive driving school as an element of sentence, but may not dismiss the conviction or finding of responsibility and shall report the conviction or finding of responsibility to the department as prescribed in section 28-1559. A driver of a commercial motor vehicle that requires a commercial driver license is not eligible for the defensive driving diversion program.

**28-3393. Defensive driving school attendance; discrimination prohibited; notice requirements**

A. Except as provided in subsection B, an eligible individual who elects to attend a defensive driving school shall attend one of the following within the time allowed by the court:

1. A defensive driving school that is certified by the supreme court and complies with the court automation and reporting requirements pursuant to subsections B and C.

2. On application to the court and on the showing of reasonable justification by the individual, another supreme court certified defensive driving school. Reasonable justification includes the fact that the individual resides in another area and that attendance at any of the defensive driving schools that comply with the court automation and reporting requirements creates a hardship on the individual.

B. On the expiration of all contracts that are in existence on July 1, 2007 between the court and a defensive driving school provider, an eligible individual who elects to attend a defensive driving school may attend any supreme court certified defensive driving school that complies with the court automation and reporting requirements. For the purposes of this subsection, the renewal of any contract between a court and a defensive driving school after July 1, 2007, shall be considered a new contract.

C. A court may adopt requirements for a school to electronically report school completions and to transfer funds, subject to the approval of the defensive driving board.

D. A law enforcement officer or a jurisdiction issuing a civil traffic citation to an individual shall provide notice to the individual that if eligible, the individual may attend any supreme court certified defensive driving school subject to subsection B.

E. A court shall not promote or favor any supreme court certified defensive driving school over another, except that the notice provided pursuant to subsection D may exclude a school that does not comply with the court's automation and reporting requirements pursuant to subsections B and C.

**28-3394. Successful course completion (Effective through 8/31/2019)**

A. If an eligible individual successfully completes the course at a defensive driving school:

1. The court shall dismiss the civil or criminal traffic citation for which the individual attended the school.

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2. The department shall not include a record of the civil or criminal traffic citation for which the individual attended the school on the individual's driving record.

B. The dismissal of a civil or criminal traffic citation pursuant to this section does not preclude the introduction of evidence pertaining to the issuance of the citation in a civil or criminal proceeding.

#### 28-3394. Successful course completion (Effective 9/1/2019)

A. Except as provided in section 28-3394.01, if an eligible individual successfully completes the course at a defensive driving school:

1. The court shall dismiss the civil or criminal traffic citation for which the individual attended the school.

2. The department shall not include a record of the civil or criminal traffic citation for which the individual attended the school on the individual's driving record.

B. The dismissal of a civil or criminal traffic citation pursuant to this section does not preclude the introduction of evidence pertaining to the issuance of the citation in a civil or criminal proceeding.

#### 28-3394.01. Commercial driver license holders (Effective 9/1/2019)

A. The court shall forward to the department an abstract of a record of judgment against a person who holds a commercial driver license and who is eligible to attend defensive driving school pursuant to section 28-3392. The department shall include a record of the civil traffic violation on the person's driving record. The department or an agency of this state may not consider the violation for the purpose of determining whether the person's driver license should be suspended or revoked.

B. If the person described in subsection A of this section successfully completes the course at a defensive driving school:

1. The court may not impose a civil penalty for the traffic citation for which the individual attended the school.

2. For private passenger motor vehicle liability insurance, an insurer shall consider the traffic citation equivalent to a dismissed traffic citation pursuant to section 28-3394 except that an insurer of a commercial motor vehicle may consider the citation for underwriting and rating purposes for any policy covering the vehicle.

**28-3395. Supreme court authority and duties; rules; record**

A. The supreme court may contract with a public or private agency that does not provide defensive driving schools in this state pursuant to this article to provide assistance in carrying out the duties of this article.

B. The supreme court shall:

1. Supervise the use of defensive driving schools by the courts in this state.
2. Make public the amount of the court diversion fee assessed by each court in this state pursuant to this article and the total cost to attend a defensive driving school in each court.
3. Establish an automated statewide database for keeping a record of persons who attend a defensive driving school.
4. Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts.
5. Establish procedures for courts and schools to remit reports that are required by the supreme court.
6. Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion program.
7. Require that a defensive driving school class not exceed a total of four and one-half hours, including any testing, reviewing and grading related to the defensive driving school class.

C. The information contained in the database required by this section is not a public record.

**28-3396. Court diversion fee (effective through 8/31/2019)**

A. The presiding judge of each court shall:

1. Set the amount of the court diversion fee that an individual who attends a defensive driving school may be assessed.
2. Charge an individual a forty-five dollar surcharge if the individual attends a defensive driving school.

3. Immediately inform the supreme court in writing of the amount of the court diversion fee that is established for the court and the total cost to attend a defensive driving school.

4. Immediately inform the supreme court in writing of any changes in the total cost to attend a defensive driving school.

B. Payment of the court diversion fee and surcharge is in lieu of payment of a civil penalty or criminal fine and any surcharge that are imposed for a traffic violation.

C. The driving school shall collect the court diversion fee and surcharge before or at the time an individual attends the school. On receipt of the diversion fee, the defensive driving school shall transmit the fee promptly to the appropriate court pursuant to procedures prescribed by the supreme court. On receipt of the surcharge, the defensive driving school shall transmit the surcharge promptly to the state treasurer for deposit, pursuant to sections 35-146 and 35-147, as follows:

1. The first ten million four hundred thousand dollars in revenue annually in the department of public safety forensics fund established by section 41-1730.

2. All remaining money in the state general fund.

### 28-3396. Court diversion fee (effective 9/1/2019)

A. The presiding judge of each court shall:

1. Set the amount of the court diversion fee that an individual, including an individual who holds a commercial driver license, who attends a defensive driving school may be assessed.

2. Charge an individual a forty-five dollar surcharge if the individual attends a defensive driving school.

3. Immediately inform the supreme court in writing of the amount of the court diversion fee that is established for the court and the total cost to attend a defensive driving school.

4. Immediately inform the supreme court in writing of any changes in the total cost to attend a defensive driving school.

B. Payment of the court diversion fee and surcharge is in lieu of payment of a civil penalty or criminal fine and any surcharge that are imposed for a traffic violation.

C. The driving school shall collect the court diversion fee and surcharge before or at the time an individual attends the school. On receipt of the diversion fee, the defensive driving school shall transmit the fee promptly to the appropriate court pursuant to procedures prescribed by the supreme court. On receipt of the surcharge, the defensive driving school shall transmit the surcharge promptly to the state treasurer for deposit, pursuant to sections 35-146 and 35-147, as follows:

1. The first ten million four hundred thousand dollars in revenue annually in the department of public safety forensics fund established by section 41-1730.
2. All remaining money in the state general fund.

#### 28-3397. Additional fees; disposition

A. In addition to the court diversion fee and the fee for the cost to attend a defensive driving school, a person who attends a defensive driving school pursuant to this article or by a court order shall pay a fee of not more than fifteen dollars that is established by the supreme court.

B. Before or at the time an individual attends a defensive driving school, the school shall collect the defensive driving school fund fee established pursuant to this section and the fee, if any, charged by the defensive driving school for the course.

C. The defensive driving school shall transmit the fee established by the supreme court pursuant to this section to the supreme court. The supreme court shall deposit the fee in the defensive driving school fund established by section 28-3398 pursuant to procedures established by the supreme court.

#### 28-3398. Defensive driving school fund

A. A defensive driving school fund is established consisting of monies collected for the fee established by the supreme court pursuant to section 28-3397.

B. The monies in the fund shall be used, subject to legislative appropriation, to supervise the use of defensive driving schools by the courts in this state and to expedite the processing of all offenses prescribed in chapters 3 and 4 of this title.

C. The fund established in this section is not subject to reversion. On notice from the supreme court, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

28-3399. [Audit](#)

The supreme court may require a defensive driving school to be audited for compliance with the requirements of this article.