

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
IMPLEMENTATION OF LEGISLATION) Administrative Order
AFFECTING THE DEFENSIVE) No. 2008 - 78
DRIVING PROGRAM)
)
)
_____)

House Bill 2001, 48th Legislature, 1st Regular Session (Arizona 2007), (Chapter 182); and House Bill 2488, 48th Legislature, 2nd Regular Session (Arizona 2008), (Chapter 39), made significant amendments to Arizona Revised Statute §§ 28-3393 regarding the Defensive Driving Program. The changes include striking the provision that courts may select a primary provider defensive driving school; requiring the courts to allow an individual to attend any certified defensive driving school under specified conditions; prohibiting a court from promoting or favoring any certified defensive driving school over another; requiring a law enforcement officer or jurisdiction issuing a civil traffic citation to an individual to provide notice the individual may attend any certified defensive driving school; and approval of a court's automation and reporting requirements by the Defensive Driving Board. These statutory changes take effect January 1, 2009. In addition, House Bill 2210, 48th Legislature, 2nd Regular Session (Arizona 2008), (Chapter 286), amends Arizona Revised Statute § 28-3396 and enacts a new surcharge for defensive driving school attendance, effective for violations committed on and after September 26, 2008.

Implementation of these new laws requires establishment of standard data fields and procedures for transmission of information from the defensive driving schools to the Administrative Office of the Courts and to the individual courts, changes to court automation applications, and provision of information to public.

Article VI, Section III of the Arizona Constitution provides that the Supreme Court shall exercise administrative supervision over all the courts in the state and Arizona Revised Statute § 28-3395 specifies that the Supreme Court shall supervise the use of defensive driving schools by the Arizona courts.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution and A.R.S. § 28-3395,

IT IS ORDERED adopting the XML specifications including the data fields contained in Appendix A as the statewide standard for the electronic reporting of defensive driving school registration and completion information. All courts shall follow the adopted standard reporting

requirements and capture the registration and completion information unless the court can demonstrate, as specified below, why an exception should be granted by the Defensive Driving Board. The Board may grant an exception to the adopted standards only under the following circumstances:

1. The court's case management system currently receives defensive driving completion information from the defensive driving schools in a manner that electronically receipts the associated court diversion fees to each individual case; or
2. A non-AZTEC court can demonstrate it needs additional time or cannot make the programming changes necessary to accept the defensive driving XML messages distributed by MQ series for integration into its case management system.

IT IS FURTHER ORDERED that the presiding judge of each municipal and justice of the peace court shall:

1. Review all existing primary provider contracts entered into between each court and defensive driving school;
2. By December 31, 2008, terminate any contracts that were executed without a competitive procurement process, regardless of the execution or expiration date of the contract;
3. By December 31, 2008, terminate any contracts with no expiration date;
4. Exercise any cancellation clause to terminate the contract by December 31, 2008 or as soon thereafter as possible. This applies to all contracts with a cancellation clause, regardless of the date of execution or expiration; and
5. Notify the Administrative Office of the Courts by October 31st, 2008 of any existing contracts with defensive driving schools that cannot be cancelled or terminated by December 31, 2008.

IT IS FURTHER ORDERED that any court, as of June 30, 2008, that did not receipt defensive driving programs completions to each case, either through a manual or electronic process, may request, on a form provided by the Administrative Office of the Courts, an exception to the Minimum Accounting Standards. Courts receiving defensive driving program automated receipting to their case management systems as of June 30, 2008 shall continue to receipt the monies to each individual case. Courts shall maintain a documented audit trail for all defensive driving program completions and dismissals. The documented audit trail must contain at least a method to identify which specific cases were applicable for each defensive driving school payment and verified reconciliations of the payments to the number of cases represented by the payment.

IT IS FURTHER ORDERED, that defensive driving schools shall assess the new forty-five dollar (\$45.00) surcharge mandated by A.R.S. § 28-3396 (hereinafter referred to as the "state surcharge") on every individual who attends defensive driving school, for violations committed on and after September 26, 2008. Pursuant to a Memorandum of Understanding between the State Treasurer and the Administrative Office of the Courts, defensive driving schools shall transmit the state surcharge to the Administrative Office of the Courts along with the state fee, according to the remittance schedule specified in the Arizona Code of Judicial

Administration (“ACJA”) § 7-205(F)(22). Upon receipt, the Administrative Office of the Courts shall transmit the state surcharge to the State Treasurer for deposit, pursuant to A.R.S. §§ 35-146 and 35-147, in the state general fund. Collection, remittance and reconciliation of the state surcharge by the defensive driving schools shall comply with the existing procedures specified in ACJA § 7-205(F)(21) and (F)(22) for the collection of court diversion and state fees. Refund of the state surcharge by the defensive driving schools shall comply with the existing procedures specified in ACJA § 7-205(F)(24) for refund of the state fee.

IT IS FURTHER ORDERED that, for the purposes of implementation of the new state surcharge, the provisions of ACJA § 7-205(D)(5)(d) regarding changes to the court diversion fee and total cost to attend and the requirement that courts provide the Administrative Office of the Courts with 30 days notice of the changes is waived for the October 1, 2008 date. The presiding judge may change the court diversion fee and total cost to attend effective September 26, 2008. The total cost to attend shall include the \$ 45.00 state surcharge. The presiding judge shall notify the Administrative Office of the Courts of any changes to the court diversion fee that will be effective on September 26, 2008, using the form provided by the Administrative Office of the Courts. The Administrative Office of the Courts shall post the total cost to attend defensive driving school for each court on the judicial department website. The total cost to attend shall include the school fee, state fee, state surcharge and court diversion fee.

Dated this 23rd day of September, 2008.

REBECCA WHITE BERCH
Vice Chief Justice

APPENDIX A
STATEWIDE DEFENSIVE DRIVING REPORTING REQUIREMENTS

The statewide standards for the reporting of defensive driving school registration and completion information are:

1. XML specifications as posted at:
<http://www.supreme.state.az.us/cot/Documents/EAS/EAS.htm>.
2. Data fields for registration and completion:
 - a. School certification number;
 - b. Student last name;
 - c. Student first name;
 - d. Student middle initial;
 - e. Student date of birth;
 - f. Student driver license number;
 - g. Student driver license state;
 - h. Citation number;
 - i. Citation violation date;
 - j. Violation code;
 - k. Violation type;
 - l. Charge identifier;
 - m. Court code;
 - n. Class date;
 - o. Acceptance flag;
 - p. Reject reason;
 - q. Extension date;
 - r. Record type; and
 - s. File date.