
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 133 Session of
2003

INTRODUCED BY PRIME SPONSOR WITHDREW, COSTA, LAVALLE, DENT AND
LOGAN, FEBRUARY 10, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 16, 2004

AN ACT

1 ~~Amending Title 75 (Vehicles) of the Pennsylvania Consolidated~~ <—
2 ~~Statutes, further providing for definitions, for revocation~~
3 ~~of habitual offenders' licenses and for requirements for~~
4 ~~driving under influence offenders; providing for violations~~
5 ~~of ignition interlock system provisions; further providing~~
6 ~~for occupational limited license and for penalties for~~
7 ~~driving under the influence of alcohol or controlled~~
8 ~~substances; and making repeals.~~
9 AMENDING TITLES 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 75 <—
10 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER
11 PROVIDING FOR JURISDICTION AND VENUE, FOR SENTENCE OF
12 INTERMEDIATE PUNISHMENT, FOR COUNTY INTERMEDIATE PUNISHMENT
13 PROGRAMS, FOR CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL
14 OR CONTROLLED SUBSTANCE, FOR ACCELERATED REHABILITATIVE
15 DISPOSITION, FOR GRADING, FOR PENALTIES, FOR PRIOR OFFENSES,
16 FOR ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
17 IGNITION INTERLOCK, FOR MANDATORY SENTENCING AND FOR RIGHTS
18 AND LIABILITIES OF MINORS.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. Section 102 of Title 75 of the Pennsylvania~~ <—
22 ~~Consolidated Statutes is amended by adding a definition to read:~~
23 ~~§ 102. Definitions.~~
24 ~~Subject to additional definitions contained in subsequent~~

~~provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:~~

~~* * *~~

~~"Ignition interlock system." A system approved by the department that prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level of less than .025%.~~

~~* * *~~

~~Section 2. Section 1542(a), (d) and (e) of Title 75 are amended to read:~~

~~§ 1542. Revocation of habitual offender's license.~~

~~(a) General rule. The department shall revoke the operating privilege of any person found to be a habitual offender pursuant to the provisions of this section. A "habitual offender" shall be any person whose driving record, as maintained in the department, shows that such person has accumulated the requisite number of convictions for the separate and distinct offenses described and enumerated in subsection (b) committed after the effective date of this title and within any period of [five] seven years thereafter.~~

~~* * *~~

~~(d) Period of revocation. [The]~~

~~(1) Except as otherwise provided in paragraph (2), the operating privilege of any person found to be a habitual offender under the provisions of this section shall be revoked by the department for a period of five years.~~

~~(2) If a person is found to be a habitual offender under~~

~~this section and the three convictions are for offenses under section 3731 (relating to driving under influence of alcohol or controlled substance) or one of the three convictions is for an offense under section 3735 (relating to homicide by vehicle while driving under influence) or 3735.1 (relating to aggravated assault by vehicle while driving under the influence), the operating privilege of the person shall be revoked by the department for ten years.~~

~~(c) Additional offenses. Each additional offense committed within a period of [five] seven years, as measured from the date of any previous offense, shall result in a revocation for an additional period of two years.~~

~~Section 3. Section 1548 of Title 75 is amended by adding a subsection to read:~~

~~§ 1548. Requirements for driving under influence offenders.~~

~~* * *~~

~~(g) Ignition interlock system.~~

~~(1) Where a person's operating privileges are suspended for a second or subsequent violation of section 3731 or a similar out of State offense and the person seeks a restoration of operating privileges, the ignition interlock provider shall certify to the department that each currently registered motor vehicle owned or leased by the person has been equipped with an approved ignition interlock system.~~

~~(2) A person seeking restoration of operating privileges who is subject to an ignition interlock system order pursuant to section 3731(c)(10) shall apply to the department for an ignition interlock restricted license under section 1951(d) (relating to driver's license and learner's permit) which will be clearly marked to restrict the person to operating~~

~~only motor vehicles equipped with an approved ignition interlock system.~~

~~(3) During the year immediately following the restoration of the person's operating privilege and thereafter until the person obtains an unrestricted license, the person shall not operate any motor vehicle on a highway within this Commonwealth unless the motor vehicle is equipped with an approved ignition interlock system.~~

~~(4) Except as provided in paragraph (5), a person may apply for an additional replacement license under section 1951(d) that does not contain the ignition interlock system restriction one year from the date of issuance of an ignition interlock restricted license under this section, if otherwise eligible.~~

~~(5) A person whose operating privilege is suspended for a second or subsequent violation of section 3731 or a similar out of State offense who does not apply for an ignition interlock restricted license shall not be eligible to apply for the restoration of operating privileges for an additional year after otherwise being eligible for restoration under paragraph (1).~~

~~(6) The department shall be immediately notified of any removal of an ignition interlock system required under this subsection. Upon notification, the department shall reinstate the suspension or revocation for a period of an additional year.~~

~~(7) Whenever an ignition interlock system has been installed or has been certified as installed under this subsection, the ignition interlock system shall remain installed on the vehicle for the entire period the ignition~~

~~interlock system is required to be installed.~~

~~Section 4. Title 75 is amended by adding a section to read:~~

~~§ 1548.1. Violation of ignition interlock system provisions.~~

~~(a) Operation without interlock system. A person required to operate only motor vehicles equipped with an approved ignition interlock system who operates a motor vehicle on the highways of this Commonwealth without an approved ignition interlock system commits a felony of the third degree.~~

~~(b) Excess blood alcohol level. A person required to operate only motor vehicles equipped with an approved ignition interlock system who, while operating the vehicle, provides a breath sample to the ignition interlock system indicating that he has an alcohol level of 0.025% or more shall be ineligible to apply for an unrestricted license for a period of one year beginning on the date that the breath sample was provided to the ignition interlock system.~~

~~(c) Bypassing an ignition interlock system. The following shall apply:~~

~~(1) A person required to operate only motor vehicles equipped with an approved ignition interlock system who attempts to or operates a motor vehicle by using another person to provide a breath sample to the ignition interlock system commits a misdemeanor of the third degree.~~

~~(2) A person who provides a breath sample to an ignition interlock system under paragraph (1) commits a summary offense.~~

~~(d) Tampering with ignition interlock system. A person who tampers with an ignition interlock system required by law commits a misdemeanor of the first degree.~~

~~(e) Suspension or revocation. Upon receiving a certified~~

~~record of conviction of any person under subsection (a), (c) or (d), the department shall suspend or revoke the person's operating privilege for a period of one year.~~

~~Section 5. Section 1553(d) of Title 75 is amended by adding a paragraph to read:~~

~~§ 1553. Occupational limited license.~~

~~* * *~~

~~(d) Unauthorized issuance. The department shall prohibit issuance of an occupational limited license to:~~

~~* * *~~

~~(19) Any person who has had the suspension of an operating privilege reinstated under the provisions of section 1548.1 (relating to violation of ignition interlock system provisions).~~

~~* * *~~

~~Section 6. Section 3731(e)(1) of Title 75 is amended and the subsection is amended by adding a paragraph to read:~~

~~§ 3731. Driving under influence of alcohol or controlled substance.~~

~~* * *~~

~~(e) Penalty.~~

~~(1) Any person violating any of the provisions of this section [is guilty of] commits a misdemeanor of the second degree, except that a person convicted of a third [or subsequent] offense [is guilty of a misdemeanor] commits a misdemeanor of the first degree [, and the]. Any person convicted of a fourth or subsequent offense or any person who has previously been convicted of an offense under section 3735 (relating to homicide by vehicle while driving under influence) or 3735.1 (relating to aggravated assault by~~

1 ~~vehicle while driving under the influence) regardless of the~~
2 ~~number of prior convictions under this section within the~~
3 ~~previous seven years commits a felony of the third degree.~~
4 ~~The sentencing court shall order the person to pay a fine of~~
5 ~~not less than \$300 and serve a minimum term of imprisonment~~
6 ~~of:-~~

7 ~~(i) Not less than 48 consecutive hours.~~

8 ~~(ii) Not less than 30 days if the person has~~
9 ~~previously accepted Accelerated Rehabilitative~~
10 ~~Disposition or any other form of preliminary disposition,~~
11 ~~been convicted of, adjudicated delinquent or granted a~~
12 ~~consent decree under the Juvenile Act (42 Pa.C.S. § 6301~~
13 ~~et seq.) based on an offense under this section or of an~~
14 ~~equivalent offense in this or other jurisdictions within~~
15 ~~the previous seven years.~~

16 ~~(iii) Not less than 90 days if the person has twice~~
17 ~~previously been convicted of, adjudicated delinquent or~~
18 ~~granted a consent decree under the Juvenile Act based on~~
19 ~~an offense under this section or of an equivalent offense~~
20 ~~in this or other jurisdictions within the previous seven~~
21 ~~years.~~

22 ~~(iv) Not less than one year if the person has three~~
23 ~~times previously been convicted of, adjudicated~~
24 ~~delinquent or granted a consent decree under the Juvenile~~
25 ~~Act based on an offense under this section or of an~~
26 ~~equivalent offense in this or other jurisdictions or if~~
27 ~~the person has previously been convicted of an offense~~
28 ~~under section 3735 or 3735.1 within the previous seven~~
29 ~~years.~~

30 ~~* * *~~

~~(10) The following shall apply:~~

~~(i) In addition to any other requirements imposed by the court, where a person has been convicted for a first offense under this section, the court may order the installation of an approved ignition interlock system on each currently registered motor vehicle owned or leased by the person to be effective upon the restoration of operating privileges by the department. A record shall be submitted to the department when the court has ordered the installation of an approved ignition interlock device. Before the department may restore the person's operating privilege, the department must receive a certification from the ignition interlock provider that the ignition interlock system has been installed.~~

~~(ii) In addition to any other requirements imposed by the court, where a person has been convicted of a second or subsequent violation of this section or a similar out of State offense, the court shall order the installation of an approved ignition interlock system on each currently registered motor vehicle owned or leased by the person to be effective upon the restoration of operating privileges by the department. A record shall be submitted to the department when the court has ordered the installation of an approved ignition interlock device. Before the department may restore the person's operating privilege, the department must receive certification from the ignition interlock provider that the ignition interlock system has been installed.~~

~~(iii) For the purposes of this section, acceptance of Accelerated Rehabilitative Disposition, an~~

~~adjudication of delinquency or a consent decree upon 42
Pa.C.S Ch. 63 (relating to juvenile matters) or any other
form of preliminary disposition of any charge brought
under this section shall be considered a first
conviction.~~

~~(iv) An ignition interlock system required to be
installed under this section must be a system which has
been approved by the department. The department's
approval of ignition interlock systems shall be published
in the Pennsylvania Bulletin.~~

~~(v) An ignition interlock service provider shall
provide reports to the department and the court, if
requested, for each ignition interlock system.~~

~~(vi) The department shall develop training programs
for law enforcement, court officials and probation and
parole offices on ignition interlock systems including
the proper use, identification, technology and
limitations of an ignition interlock system.~~

~~* * *~~

~~Section 7. Sections 3735(a) and 3735.1(a) of Title 75 are
amended to read:~~

~~§ 3735. Homicide by vehicle while driving under influence.~~

~~(a) Offense defined.—~~

~~(1) Any person who unintentionally causes the death of
another person as the result of a violation of section 3731
(relating to driving under influence of alcohol or controlled
substance) and who is convicted of violating section 3731 [is
guilty of] commits a felony of the second degree when the
violation is the cause of death and the sentencing court
shall order the person to serve a minimum term of~~

~~imprisonment of not less than three years. A consecutive three year term of imprisonment shall be imposed for each victim whose death is the result of the violation of section 3731.~~

~~(2) Any person who commits an offense under paragraph (1) and who has been convicted of an offense under section 3731 two times within the previous seven years commits a felony of the first degree.~~

~~* * *~~

~~§ 3735.1. Aggravated assault by vehicle while driving under the influence.~~

~~(a) Offense defined.—~~

~~(1) Any person who negligently causes serious bodily injury to another person as the result of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section 3731 commits a felony of the second degree when the violation is the cause of the injury.~~

~~(2) Any person who commits an offense under paragraph (1) and who has been convicted of an offense under section 3731 two times within the previous seven years commits a felony of the first degree.~~

~~* * *~~

~~Section 8. The following acts and parts of acts are repealed:~~

~~18 Pa.C.S. § 7514.~~

~~42 Pa.C.S. Ch. 70.~~

~~Section 9. The addition of 75 Pa.C.S. § 3731(c)(10) shall be deemed a continuation of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70:~~

~~(1) The repeal of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70 shall have no effect on the legality of actions committed prior to the effective date of the repeal of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70.~~

~~(2) A prosecution for violation of 18 Pa.C.S. § 7514 which occurred prior to the effective date of the repeal of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70 may proceed notwithstanding the repeal.~~

~~(3) Actions committed on or after the effective date of the addition of 75 Pa.C.S. § 3731(e)(10) shall be subject to 75 Pa.C.S. § 3731(e)(10).~~

~~Section 10. This act shall take effect immediately.~~

SECTION 1. SECTION 1515(A) OF TITLE 42 OF THE PENNSYLVANIA
CONSOLIDATED STATUTES IS AMENDED BY ADDING A PARAGRAPH TO READ:
§ 1515. JURISDICTION AND VENUE.

(A) JURISDICTION.--EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL
RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO REASSIGNMENT
OF MATTERS), DISTRICT JUSTICES SHALL, UNDER PROCEDURES
PRESCRIBED BY GENERAL RULE, HAVE JURISDICTION OF ALL OF THE
FOLLOWING MATTERS:

* * *

(5.1) OFFENSES UNDER 75 PA.C.S. § 3808 (RELATING TO
ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
IGNITION INTERLOCK).

* * *

SECTION 2. SECTIONS 9763 HEADING, (A) AND (C) AND 9804(B) OF
TITLE 42, AMENDED SEPTEMBER 30, 2003 (P.L.120, NO.24), ARE
AMENDED TO READ:

§ 9763. SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT.

(A) GENERAL RULE.--IN IMPOSING A SENTENCE OF COUNTY

1 INTERMEDIATE PUNISHMENT, THE COURT SHALL SPECIFY AT THE TIME OF
2 SENTENCING THE LENGTH OF THE TERM FOR WHICH THE DEFENDANT IS TO
3 BE IN [AN] A COUNTY INTERMEDIATE PUNISHMENT PROGRAM ESTABLISHED
4 UNDER CHAPTER 98 (RELATING TO COUNTY INTERMEDIATE PUNISHMENT) OR
5 A COMBINATION OF INTERMEDIATE PUNISHMENT PROGRAMS. THE TERM MAY
6 NOT EXCEED THE MAXIMUM TERM FOR WHICH THE DEFENDANT COULD BE
7 CONFINED AND THE PROGRAM TO WHICH THE DEFENDANT IS SENTENCED.
8 THE COURT MAY ORDER A DEFENDANT TO SERVE A PORTION OF THE
9 SENTENCE UNDER SECTION 9755 (RELATING TO SENTENCE OF PARTIAL
10 CONFINEMENT) OR 9756 (RELATING TO SENTENCE OF TOTAL CONFINEMENT)
11 AND TO SERVE A PORTION IN [AN] A COUNTY INTERMEDIATE PUNISHMENT
12 PROGRAM OR A COMBINATION OF COUNTY INTERMEDIATE PUNISHMENT
13 PROGRAMS.

14 * * *

15 (C) RESTRICTION.--

16 (1) [A DEFENDANT SUBJECT TO] ANY PERSON RECEIVING A
17 PENALTY IMPOSED PURSUANT TO 75 PA.C.S. § 1543(B) (RELATING TO
18 DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED),
19 FORMER 75 PA.C.S. § 3731 (RELATING TO DRIVING UNDER THE
20 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) OR 75 PA.C.S. §
21 3804 (RELATING TO PENALTIES) FOR A FIRST, SECOND OR THIRD
22 OFFENSE MAY ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT[:

23 (I) FOR A FIRST, SECOND OR THIRD OFFENSE UNDER 75
24 PA.C.S. CH. 38 (RELATING TO DRIVING AFTER IMBIBING
25 ALCOHOL OR UTILIZING DRUGS); AND

26 (II)] AFTER UNDERGOING AN ASSESSMENT UNDER 75
27 PA.C.S. § 3814 (RELATING TO DRUG AND ALCOHOL
28 ASSESSMENTS).

29 (2) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF DRUG
30 AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY BE SENTENCED TO

1 COUNTY INTERMEDIATE PUNISHMENT WHICH INCLUDES PARTICIPATION
2 IN DRUG AND ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C)
3 (RELATING TO MANDATORY SENTENCING). [SUCH TREATMENT MAY BE
4 COMBINED WITH HOUSE ARREST WITH ELECTRONIC SURVEILLANCE OR A
5 PARTIAL CONFINEMENT PROGRAM SUCH AS WORK RELEASE, A WORK CAMP
6 OR A HALFWAY FACILITY.] THE DEFENDANT MAY ONLY BE SENTENCED
7 TO COUNTY INTERMEDIATE PUNISHMENT IN:

8 (I) A RESIDENTIAL INPATIENT PROGRAM OR A RESIDENTIAL
9 REHABILITATIVE CENTER;

10 (II) HOUSE ARREST AND ELECTRONIC SURVEILLANCE;

11 (III) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK
12 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

13 (IV) ANY COMBINATION OF THE PROGRAMS SET FORTH IN
14 THIS SUBSECTION.

15 (3) IF THE DEFENDANT IS DETERMINED NOT TO BE IN NEED OF
16 DRUG AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY BE
17 SENTENCED TO COUNTY INTERMEDIATE PUNISHMENT [BY] IN:

18 (I) HOUSE ARREST [OR] AND ELECTRONIC SURVEILLANCE;

19 (II) PARTIAL CONFINEMENT PROGRAMS SUCH AS WORK
20 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

21 (III) ANY COMBINATION OF THE PROGRAMS SET FORTH IN
22 THIS SUBSECTION.

23 * * *

24 § 9804. COUNTY INTERMEDIATE PUNISHMENT PROGRAMS.

25 * * *

26 (B) ELIGIBILITY.--

27 (1) NO PERSON OTHER THAN THE ELIGIBLE OFFENDER SHALL BE
28 SENTENCED TO A COUNTY INTERMEDIATE PUNISHMENT PROGRAM.

29 (2) THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL
30 EMPLOY THE TERM "ELIGIBLE OFFENDER" TO FURTHER IDENTIFY

1 OFFENDERS WHO WOULD BE APPROPRIATE FOR PARTICIPATION IN
2 COUNTY INTERMEDIATE PUNISHMENT PROGRAMS. IN DEVELOPING THE
3 GUIDELINES, THE COMMISSION SHALL GIVE PRIMARY CONSIDERATION
4 TO PROTECTION OF THE PUBLIC SAFETY.

5 (4) (I) ANY PERSON RECEIVING A PENALTY IMPOSED PURSUANT
6 TO 75 PA.C.S. § 1543(B) (RELATING TO DRIVING WHILE
7 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED), 3804
8 (RELATING TO PENALTIES) OR 3808(A)(2) (RELATING TO
9 ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
10 IGNITION INTERLOCK) SHALL UNDERGO AN ASSESSMENT UNDER 75
11 PA.C.S. § 3814 (RELATING TO DRUG AND ALCOHOL
12 ASSESSMENTS).

13 (II) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF
14 DRUG AND ALCOHOL TREATMENT, A SENTENCE TO COUNTY
15 INTERMEDIATE PUNISHMENT SHALL INCLUDE PARTICIPATION IN
16 DRUG AND ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C)
17 (RELATING TO MANDATORY SENTENCING). [SUCH TREATMENT MAY
18 BE COMBINED WITH HOUSE ARREST WITH ELECTRONIC
19 SURVEILLANCE OR A PARTIAL CONFINEMENT PROGRAM SUCH AS
20 WORK RELEASE, A WORK CAMP OR A HALFWAY FACILITY.] THE
21 DEFENDANT MAY ONLY BE SENTENCED TO COUNTY INTERMEDIATE
22 PUNISHMENT IN:

23 (A) A RESIDENTIAL INPATIENT PROGRAM OR A
24 RESIDENTIAL REHABILITATIVE CENTER;

25 (B) HOUSE ARREST AND ELECTRONIC SURVEILLANCE;

26 (C) PARTIAL CONFINEMENT PROGRAMS SUCH AS WORK
27 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

28 (D) ANY COMBINATION OF THE PROGRAMS SET FORTH IN
29 THIS SUBPARAGRAPH.

30 (III) IF THE DEFENDANT IS DETERMINED NOT TO BE IN

1 NEED OF DRUG AND ALCOHOL TREATMENT, THE DEFENDANT MAY
2 ONLY BE SENTENCED TO COUNTY INTERMEDIATE PUNISHMENT
3 PROGRAM IN:

4 (A) HOUSE ARREST AND ELECTRONIC SURVEILLANCE;

5 (B) PARTIAL CONFINEMENT PROGRAMS SUCH AS WORK
6 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

7 (C) ANY COMBINATION OF THE PROGRAMS SET FORTH IN
8 THIS [PARAGRAPH] SUBPARAGRAPH.

9 (5) A DEFENDANT SUBJECT TO 75 PA.C.S § 3804 (RELATING TO
10 PENALTIES) MAY ONLY BE SENTENCED TO COUNTY INTERMEDIATE
11 PUNISHMENT FOR A FIRST, SECOND OR THIRD OFFENSE UNDER 75
12 PA.C.S. CH. 38 (RELATING TO DRIVING AFTER IMBIBING ALCOHOL OR
13 UTILIZING DRUGS).

14 SECTION 3. SECTIONS 1547(B)(2), 1552 AND 3803 OF TITLE 75,
15 AMENDED OR ADDED SEPTEMBER 30, 2003 (P.L.120, NO.24), ARE
16 AMENDED TO READ:

17 § 1547. CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR
18 CONTROLLED SUBSTANCE.

19 * * *

20 (B) SUSPENSION FOR REFUSAL.--

21 * * *

22 (2) IT SHALL BE THE DUTY OF THE POLICE OFFICER TO INFORM
23 THE PERSON THAT:

24 (I) THE PERSON'S OPERATING PRIVILEGE WILL BE
25 SUSPENDED UPON REFUSAL TO SUBMIT TO CHEMICAL TESTING; AND

26 (II) IF THE PERSON REFUSES TO SUBMIT TO CHEMICAL
27 TESTING, UPON CONVICTION[, PLEA OR ADJUDICATION OF
28 DELINQUENCY] OR PLEA FOR VIOLATING SECTION [3802(A)]
29 3802(A)(1), THE PERSON WILL BE SUBJECT TO THE PENALTIES
30 PROVIDED IN SECTION 3804(C) (RELATING TO PENALTIES).

1 * * *

2 § 1552. ACCELERATED REHABILITATIVE DISPOSITION.

3 THE COURT OF COMMON PLEAS IN EACH JUDICIAL DISTRICT AND THE
4 MUNICIPAL COURT OF PHILADELPHIA SHALL ESTABLISH AND IMPLEMENT A
5 PROGRAM FOR ACCELERATED REHABILITATIVE DISPOSITION FOR PERSONS
6 CHARGED WITH A VIOLATION OF SECTION 3802 (RELATING TO DRIVING
7 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) IN
8 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, CHAPTER 38
9 (RELATING TO DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING DRUGS)
10 AND RULES ADOPTED BY THE SUPREME COURT.

11 § 3803. GRADING.

12 (A) BASIC OFFENSES.--NOTWITHSTANDING THE PROVISIONS OF
13 SUBSECTION (B):

14 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (RELATING
15 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
16 SUBSTANCE) AND HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A
17 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
18 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
19 FINE UNDER SECTION 3804 (RELATING TO PENALTIES).

20 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) AND HAS
21 MORE THAN ONE PRIOR OFFENSE COMMITS A MISDEMEANOR OF THE
22 SECOND DEGREE.

23 (B) OTHER OFFENSES.--

24 (1) AN INDIVIDUAL WHO VIOLATES SECTION [3802(B)]
25 3802(A)(1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY
26 INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR IN
27 DAMAGE TO A VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES
28 SECTION 3802(B), (E) OR (F) AND WHO HAS NO MORE THAN ONE
29 PRIOR OFFENSE COMMITS A MISDEMEANOR FOR WHICH THE INDIVIDUAL
30 MAY BE SENTENCED TO A TERM OF IMPRISONMENT OF NOT MORE THAN

1 SIX MONTHS AND TO PAY A FINE UNDER SECTION 3804.

2 (2) AN INDIVIDUAL WHO VIOLATES SECTION [3802(C)]
3 3802(A)(1) WHERE THE INDIVIDUAL REFUSED TESTING OF BLOOD OR
4 BREATH, OR WHO VIOLATES SECTION 3802(C) OR (D) AND WHO HAS NO
5 PRIOR OFFENSES COMMITS A MISDEMEANOR FOR WHICH THE INDIVIDUAL
6 MAY BE SENTENCED TO A TERM OF IMPRISONMENT OF NOT MORE THAN
7 SIX MONTHS AND TO PAY A FINE UNDER SECTION 3804.

8 (3) AN INDIVIDUAL WHO VIOLATES SECTION [3802(B)]
9 3802(A)(1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY
10 INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR IN
11 DAMAGE TO A VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES
12 SECTION 3802(B), (E) OR (F) AND WHO HAS MORE THAN ONE PRIOR
13 OFFENSE COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

14 (4) AN INDIVIDUAL WHO VIOLATES SECTION [3802(C)]
15 3802(A)(1) WHERE THE INDIVIDUAL REFUSED TESTING OF BLOOD OR
16 BREATH, OR WHO VIOLATES SECTION 3802(C) OR (D) AND WHO HAS
17 ONE OR MORE PRIOR OFFENSES COMMITS A MISDEMEANOR OF THE FIRST
18 DEGREE.

19 SECTION 4. SECTION 3804(A), (B) AND (C) OF TITLE 75, ADDED
20 SEPTEMBER 30, 2003 (P.L.120, NO.24), ARE AMENDED AND THE SECTION
21 IS AMENDED BY ADDING A SUBSECTION TO READ:

22 § 3804. PENALTIES.

23 (A) GENERAL IMPAIRMENT.--[AN] EXCEPT AS SET FORTH IN
24 SUBSECTION (B) OR (C), AN INDIVIDUAL WHO VIOLATES SECTION
25 3802(A) (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
26 CONTROLLED SUBSTANCE) SHALL BE SENTENCED AS FOLLOWS:

27 (1) FOR A FIRST OFFENSE, TO:

28 (I) UNDERGO A PERIOD OF SUPERVISION, LIMITED TO
29 PROBATION NOT TO EXCEED SIX MONTHS;

30 (II) PAY A FINE OF \$300;

(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
APPROVED BY THE DEPARTMENT; AND

(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 (RELATING TO
DRUG AND ALCOHOL ASSESSMENTS) AND 3815 (RELATING TO
MANDATORY SENTENCING).

(2) FOR A SECOND OFFENSE, TO:

(I) UNDERGO IMPRISONMENT FOR NOT LESS THAN FIVE DAYS
[NOR MORE THAN SIX MONTHS];

(II) PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN
\$2,500;

(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
APPROVED BY THE DEPARTMENT; AND

(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

(3) FOR A THIRD OR SUBSEQUENT OFFENSE, TO:

(I) UNDERGO IMPRISONMENT OF NOT LESS THAN TEN DAYS
[NOR MORE THAN TWO YEARS];

(II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN
\$5,000; AND

(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

(B) HIGH RATE OF BLOOD ALCOHOL; MINORS; COMMERCIAL VEHICLES
AND SCHOOL BUSES AND SCHOOL VEHICLES; ACCIDENTS.--EXCEPT AS SET
FORTH IN SUBSECTION (C), AN INDIVIDUAL WHO VIOLATES SECTION
3802(A)(1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY
INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR DAMAGE
TO A VEHICLE OR OTHER PROPERTY OR WHO VIOLATES SECTION 3802(B),
(E) OR (F) SHALL BE SENTENCED AS FOLLOWS:

(1) FOR A FIRST OFFENSE, TO:

1 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 48
2 CONSECUTIVE HOURS [NOR MORE THAN SIX MONTHS];

3 (II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN
4 \$5,000;

5 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
6 APPROVED BY THE DEPARTMENT; AND

7 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
8 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

9 (2) FOR A SECOND OFFENSE, TO:

10 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 30 DAYS
11 [NOR MORE THAN SIX MONTHS];

12 (II) PAY A FINE OF NOT LESS THAN \$750 NOR MORE THAN
13 \$5,000;

14 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
15 APPROVED BY THE DEPARTMENT; AND

16 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
17 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

18 (3) FOR A THIRD OFFENSE, TO:

19 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 90 DAYS
20 [NOR MORE THAN FIVE YEARS];

21 (II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE
22 THAN \$10,000; AND

23 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
24 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

25 (4) FOR A FOURTH OR SUBSEQUENT OFFENSE, TO:

26 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR
27 [NOR MORE THAN FIVE YEARS];

28 (II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE
29 THAN \$10,000; AND

30 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT

1 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

2 (C) INCAPACITY; HIGHEST BLOOD ALCOHOL; CONTROLLED
3 SUBSTANCES.--AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) AND
4 REFUSED TESTING OF BLOOD OR BREATH OR AN INDIVIDUAL WHO VIOLATES
5 SECTION 3802(C) OR (D) SHALL BE SENTENCED AS FOLLOWS:

6 (1) FOR A FIRST OFFENSE, TO:

7 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 72
8 CONSECUTIVE HOURS [NOR MORE THAN SIX MONTHS];

9 (II) PAY A FINE OF NOT LESS THAN \$1,000 NOR MORE
10 THAN \$5,000;

11 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
12 APPROVED BY THE DEPARTMENT; AND

13 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
14 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

15 (2) FOR A SECOND OFFENSE, TO:

16 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 90 DAYS
17 [NOR MORE THAN FIVE YEARS];

18 (II) PAY A FINE OF NOT LESS THAN \$1,500;

19 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
20 APPROVED BY THE DEPARTMENT; AND

21 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
22 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

23 (3) FOR A THIRD OR SUBSEQUENT OFFENSE, TO:

24 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR
25 [NOR MORE THAN FIVE YEARS];

26 (II) PAY A FINE OF NOT LESS THAN \$2,500; AND

27 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
28 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

29 * * *

30 (K) NONAPPLICABILITY.--EXCEPT FOR SUBSECTION (E), THIS

1 SECTION SHALL NOT APPLY TO DISPOSITIONS RESULTING FROM
2 PROCEEDINGS UNDER 42 PA.C.S. CH. 63 (RELATING TO JUVENILE
3 MATTERS).

4 SECTION 5. SECTIONS 3806, 3807(B)(1)(IV) AND (D), 3808(A)(1)
5 AND (B) AND 3815(A) OF TITLE 75, ADDED SEPTEMBER 30, 2003
6 (P.L.120, NO.24), ARE AMENDED TO READ:

7 § 3806. PRIOR OFFENSES.

8 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B),
9 THE TERM "PRIOR OFFENSE" AS USED IN THIS CHAPTER SHALL MEAN A
10 CONVICTION, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT
11 DECREE, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR
12 OTHER FORM OF PRELIMINARY DISPOSITION BEFORE THE SENTENCING ON
13 THE PRESENT VIOLATION FOR ANY OF THE FOLLOWING:

14 (1) AN OFFENSE UNDER SECTION 3802 (RELATING TO DRIVING
15 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);

16 (2) AN OFFENSE UNDER FORMER SECTION 3731;

17 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
18 [PARAGRAPHS] PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR

19 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
20 [PARAGRAPHS] PARAGRAPH (1), (2) OR (3).

21 (B) REPEAT OFFENSES WITHIN TEN YEARS.--THE CALCULATION OF
22 PRIOR OFFENSES FOR PURPOSES OF SECTIONS 1553(D.2) (RELATING TO
23 OCCUPATIONAL LIMITED LICENSE), SECTION 3803 (RELATING TO
24 GRADING) AND 3804 (RELATING TO PENALTIES) SHALL INCLUDE ANY
25 CONVICTION, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT
26 DECREE, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR
27 OTHER FORM OF PRELIMINARY DISPOSITION WITHIN THE TEN YEARS
28 BEFORE THE PRESENT VIOLATION OCCURRED FOR ANY OF THE FOLLOWING:

29 (1) AN OFFENSE UNDER SECTION 3802;

30 (2) AN OFFENSE UNDER FORMER SECTION 3731;

(3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR

(4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
PARAGRAPH (1), (2) OR (3).

§ 3807. ACCELERATED REHABILITATIVE DISPOSITION.

* * *

(B) EVALUATION AND TREATMENT.--

(1) A DEFENDANT OFFERED ACCELERATED REHABILITATIVE
DISPOSITION FOR A VIOLATION OF SECTION 3802 IS, AS A
CONDITION OF PARTICIPATION IN THE PROGRAM, SUBJECT TO THE
FOLLOWING REQUIREMENTS IN ADDITION TO ANY OTHER CONDITIONS OF
PARTICIPATION IMPOSED BY THE COURT:

* * *

(IV) THE DEFENDANT MUST REMAIN SUBJECT TO COURT
SUPERVISION FOR AT LEAST SIX MONTHS, BUT NOT MORE THAN 12
MONTHS.

* * *

(D) MANDATORY SUSPENSION OF OPERATING PRIVILEGES.--AS A
CONDITION OF PARTICIPATION IN AN ACCELERATED REHABILITATIVE
DISPOSITION PROGRAM, THE COURT SHALL ORDER THE DEFENDANT'S
LICENSE SUSPENDED AS FOLLOWS:

(1) THERE SHALL BE NO LICENSE SUSPENSION IF THE
DEFENDANT'S BLOOD ALCOHOL CONCENTRATION AT THE TIME OF
TESTING WAS LESS THAN 0.10%.

(2) FOR 30 DAYS IF THE DEFENDANT'S BLOOD ALCOHOL
CONCENTRATION AT THE TIME OF TESTING WAS AT LEAST 0.10% BUT
LESS THAN 0.16%.

(3) FOR 60 DAYS IF:

(I) THE DEFENDANT'S BLOOD ALCOHOL CONCENTRATION AT
THE TIME OF TESTING WAS 0.16% OR HIGHER;

(II) THE DEFENDANT'S BLOOD ALCOHOL CONCENTRATION IS
NOT KNOWN; [OR]

(III) AN ACCIDENT WHICH RESULTED IN BODILY INJURY OR
IN DAMAGE TO A VEHICLE OR OTHER PROPERTY OCCURRED IN
CONNECTION WITH THE EVENTS SURROUNDING THE CURRENT
OFFENSE[.]; OR

(IV) THE DEFENDANT WAS CHARGED PURSUANT TO SECTION
3802(D).

(4) FOR 90 DAYS IF THE DEFENDANT WAS A MINOR AT THE TIME
OF THE OFFENSE.

* * *

§ 3808. ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
IGNITION INTERLOCK.

(A) OFFENSE DEFINED.--

(1) AN INDIVIDUAL REQUIRED TO ONLY DRIVE, OPERATE OR BE
IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A MOTOR VEHICLE
EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM UNDER SECTION
1553(D.2) (RELATING TO OCCUPATIONAL LIMITED LICENSE) OR 3805
(RELATING TO IGNITION INTERLOCK) WHO DRIVES, OPERATES OR IS
IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A MOTOR VEHICLE
WITHIN THIS COMMONWEALTH WITHOUT SUCH A SYSTEM COMMITS A
[SUMMARY OFFENSE] MISDEMEANOR AND SHALL, UPON CONVICTION, BE
SENTENCED TO PAY A FINE OF NOT LESS THAN \$300 AND NOT MORE
THAN \$1,000 AND TO IMPRISONMENT FOR NOT MORE THAN 90 DAYS.

* * *

(B) TAMPERING WITH AN IGNITION INTERLOCK SYSTEM.--A PERSON
THAT TAMPERS WITH AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW
COMMITS A MISDEMEANOR [OF THE THIRD DEGREE] AND SHALL, UPON
CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$300 NOR
MORE THAN \$1,000 AND TO UNDERGO IMPRISONMENT FOR NOT MORE THAN

1 90 DAYS. THE TERM "TAMPERING," IN ADDITION TO ANY PHYSICAL ACT
2 WHICH IS INTENDED TO ALTER OR INTERFERE WITH THE PROPER
3 FUNCTIONING OF AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW,
4 SHALL INCLUDE ATTEMPTING TO CIRCUMVENT OR BYPASS OR
5 CIRCUMVENTING OR BYPASSING AN IGNITION INTERLOCK SYSTEM BY:

6 (1) MEANS OF USING ANOTHER INDIVIDUAL TO PROVIDE A
7 BREATH SAMPLE; OR

8 (2) PROVIDING A BREATH SAMPLE FOR THE PURPOSE OF
9 BYPASSING AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW.

10 * * *

11 § 3815. MANDATORY SENTENCING.

12 (A) COUNTY SUPERVISION.--NOTWITHSTANDING THE LENGTH OF ANY
13 MAXIMUM TERM OF IMPRISONMENT IMPOSED PURSUANT TO SECTIONS 3803
14 (RELATING TO GRADING) AND 3804 (RELATING TO PENALTIES), AND
15 NOTWITHSTANDING THE PROVISIONS OF SECTION 17 OF THE ACT OF
16 AUGUST 6, 1941 (P.L.861, NO.323), REFERRED TO AS THE
17 PENNSYLVANIA BOARD OF PROBATION AND PAROLE LAW, THE SENTENCING
18 JUDGE MAY GRANT PAROLE UNDER THE SUPERVISION OF THE COUNTY
19 PAROLE SYSTEM TO ANY OFFENDER SERVING A SENTENCE FOR A VIOLATION
20 OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL
21 OR CONTROLLED SUBSTANCE) AND, IF APPLICABLE, SERVING ANY
22 CONCURRENT SENTENCE OF IMPRISONMENT FOR ANY MISDEMEANOR OFFENSE
23 ARISING FROM THE SAME CRIMINAL EPISODE AS THE VIOLATION OF
24 SECTION 3802. THE POWER OF THE SENTENCING JUDGE TO GRANT PAROLE
25 SHALL APPLY ONLY TO THOSE OFFENDERS WHOSE SENTENCES ARE BEING
26 SERVED IN A COUNTY PRISON PURSUANT TO 42 PA.C.S. § 9762
27 (RELATING TO SENTENCING PROCEEDING; PLACE OF CONFINEMENT) OR
28 SECTION 3804(D). THE SENTENCING JUDGE SHALL DECLARE HIS
29 INTENTION TO RETAIN PAROLE AUTHORITY AND SUPERVISION AT THE TIME
30 OF SENTENCING IN CASES IN WHICH HE WOULD NOT OTHERWISE HAVE

1 PAROLE AUTHORITY AND SUPERVISION.

2 * * *

3 SECTION 6. SECTION 6303 OF TITLE 75 IS AMENDED TO READ:

4 § 6303. RIGHTS AND LIABILITIES OF MINORS.

5 [ANY] (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION
6 (B), ANY PERSON OVER THE AGE OF 16 YEARS CHARGED WITH THE
7 VIOLATION OF ANY PROVISIONS OF THIS TITLE CONSTITUTING A SUMMARY
8 OFFENSE SHALL HAVE ALL THE RIGHTS OF AN ADULT AND MAY BE
9 PROSECUTED UNDER THE PROVISIONS OF THIS TITLE IN THE SAME MANNER
10 AS AN ADULT.

11 (B) EXCEPTION.--NO PERSON SHALL BE SENTENCED TO A TERM OF
12 IMPRISONMENT FOR A VIOLATION OF ANY PROVISIONS OF THIS TITLE
13 CONSTITUTING A SUMMARY OFFENSE COMMITTED WHILE THE PERSON WAS
14 UNDER THE AGE OF 18 YEARS.

15 SECTION 7. THE FOLLOWING PROVISIONS SHALL APPLY TO SENTENCES
16 IMPOSED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION:

17 (1) THE AMENDMENT OF:

18 (I) 42 PA.C.S. § 9763 HEADING, (A) AND (C); AND

19 (II) 42 PA.C.S. § 9804(B).

20 (2) THE AMENDMENT OF:

21 (I) 75 PA.C.S. § 3806;

22 (II) 75 PA.C.S. § 3815(A); AND

23 (III) 75 PA.C.S. § 6303.

24 SECTION 8. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.