

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1451 Session of
1993

INTRODUCED BY TRUE, BARLEY, STURLA, PERZEL, PITTS, STEELMAN,
COWELL, ULIANA, BEBKO-JONES, LAUGHLIN, NYCE, PETTIT, DEMPSEY,
MILLER, KING, SCHEETZ, SCHULER, STERN, STEIL, TRELLO, TULLI,
KREBS, HERSHEY, HUTCHINSON, GEIST, FAJT, BATTISTO, ARMSTRONG,
RUBLEY, PICCOLA AND TOMLINSON, APRIL 28, 1993

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 28, 1993

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for blood alcohol levels of
3 minors in relation to driving under the influence; and making
4 an editorial change.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Sections 1547(d) and 3731(a) and (a.1) of Title
8 75 of the Pennsylvania Consolidated Statutes, amended or added
9 December 18, 1992 (P.L.1411, No.174), are amended to read:

10 § 1547. Chemical testing to determine amount of alcohol or
11 controlled substance.

12 * * *

13 (d) Presumptions from amount of alcohol.--If chemical
14 testing of a person's breath, blood or urine shows:

15 (1) That the amount of alcohol by weight in the blood of
16 the person tested, excluding a minor, is 0.05% or less, it
17 shall be presumed that the person tested was not under

1 influence of alcohol and the person shall not be charged with
2 any violation under section 3731(a)(1), (4) or (5) (relating
3 to driving under influence of alcohol or controlled
4 substance), or, if the person was so charged prior to the
5 test, the charge shall be void ab initio. This fact shall not
6 give rise to any presumption concerning a violation of
7 section 3731(a)(2) or (3) or (i).

8 (2) That the amount of alcohol by weight in the blood of
9 the person tested, excluding a minor, is in excess of 0.05%
10 but less than 0.10%, this fact shall not give rise to any
11 presumption that the person tested was or was not under the
12 influence of alcohol, but this fact may be considered with
13 other competent evidence in determining whether the person
14 was or was not under the influence of alcohol. This provision
15 shall not negate the provisions of section 3731(i).

16 (3) That the amount of alcohol by weight in the blood of
17 the person tested is 0.10% or more, or in the case of a
18 minor, any amount, this fact may be introduced into evidence
19 if the person is charged with violating section 3731.

20 * * *

21 § 3731. Driving under influence of alcohol or controlled
22 substance.

23 (a) Offense defined.--A person shall not drive, operate or
24 be in actual physical control of the movement of any vehicle:

25 (1) while under the influence of alcohol to a degree
26 which renders the person incapable of safe driving;

27 (2) while under the influence of any controlled
28 substance, as defined in the act of April 14, 1972 (P.L.233,
29 No.64), known as ["The Controlled Substance, Drug, Device
30 and Cosmetic Act,["] to a degree which renders the person

1 incapable of safe driving;

2 (3) while under the combined influence of alcohol and
3 any controlled substance to a degree which renders the person
4 incapable of safe driving;

5 (4) while the amount of alcohol by weight in the blood
6 of the person is 0.10% or greater, or in the case of a minor,
7 in any amount; [or]

8 (5) if the amount of alcohol by weight in the blood of
9 the person is 0.10% or greater, or in the case of a minor, in
10 any amount, at the time of a chemical test of a sample of the
11 person's breath, blood or urine, which sample is:

12 (i) obtained within three hours after the person
13 drove, operated or was in actual physical control of the
14 vehicle; or

15 (ii) if the circumstances of the incident prevent
16 collecting the sample within three hours, obtained within
17 a reasonable additional time after the person drove,
18 operated or was in actual physical control of the
19 vehicle[.]; or

20 (6) if the person is a minor, if there is any measurable
21 amount of alcohol by weight in the blood.

22 (a.1) Defense.--It shall be a defense to a prosecution under
23 subsection (a)(5) or (6) if the person proves by a preponderance
24 of evidence that the person consumed alcohol after the last
25 instance in which he drove, operated or was in actual physical
26 control of the vehicle, and that the amount of alcohol by weight
27 in his blood would not have exceeded 0.10%, or in the case of a
28 minor, any amount, at the time of the test but for such
29 consumption.

30 * * *

1 Section 2. This act shall take effect in 60 days.