

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 2079 Session of  
1995

INTRODUCED BY BUTKOVITZ AND RAMOS, OCTOBER 10, 1995

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, FEBRUARY 5, 1996

AN ACT

1 Amending ~~Titles 18 (Crimes and Offenses) and~~ TITLE 75 (Vehicles) <—  
2 of the Pennsylvania Consolidated Statutes, further providing  
3 for ~~aggravated assault, for~~ homicide by vehicle and; ADDING <—  
4 THE OFFENSE OF AGGRAVATED ASSAULT BY VEHICLE; ~~AND~~ FURTHER <—  
5 PROVIDING for accidents involving death or personal injury, <—  
6 FOR CERTAIN AUTHORIZED TRAVEL PERIODS, FOR PERMIT FOR  
7 MOVEMENT DURING COURSE OF MANUFACTURE AND FOR MOVEMENT OF  
8 CERTAIN OXYGEN FURNACE PARTS; AND PROVIDING FOR MOVEMENT OF  
9 DOMESTIC ANIMAL FEED.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 ~~Section 1. Section 2702 of Title 18 of the Pennsylvania~~ <—  
13 ~~Consolidated Statutes is amended by adding a subsection to read:~~  
14 ~~§ 2702. Aggravated assault.~~

15 \* \* \*

16 ~~(a.1) Recklessness. Operating a motor vehicle while under~~  
17 ~~the influence of alcohol or a controlled substance in violation~~  
18 ~~of 75 Pa.C.S. § 3731 (relating to driving under influence of~~  
19 ~~alcohol or controlled substance) shall be deemed to constitute~~  
20 ~~recklessness under circumstances manifesting extreme~~

1 ~~indifference to the value of human life.~~

2 \* \* \*

3 ~~Section 2. Sections 3732, 3735 and 3742 of Title 75 are~~  
4 ~~amended to read:~~

5 ~~§ 3732. Homicide by vehicle.~~

6 ~~Any person who unintentionally causes the death of another~~  
7 ~~person while engaged in the violation of any law of this~~  
8 ~~Commonwealth or municipal ordinance applying to the operation or~~  
9 ~~use of a vehicle or to the regulation of traffic except section~~  
10 ~~3731 (relating to driving under influence of alcohol or~~  
11 ~~controlled substance) is guilty of homicide by vehicle, a~~  
12 ~~[misdemeanor of the first degree] felony of the third degree,~~  
13 ~~when the violation is the cause of death.~~

14 SECTION 1. SECTION 3735 OF TITLE 75 OF THE PENNSYLVANIA  
15 CONSOLIDATED STATUTES IS AMENDED TO READ:

16 § 3735. Homicide by vehicle while driving under influence.

17 (a) Offense defined.--Any person who unintentionally causes  
18 the death of another person as the [direct] result of a  
19 violation of section 3731 (relating to driving under influence  
20 of alcohol or controlled substance) and who is convicted of  
21 violating section 3731 is guilty of a felony of the [third]  
22 ~~first~~ SECOND degree when the violation is the cause of death and  
23 the sentencing court shall order the person to serve a minimum  
24 term of imprisonment of not less than three years.

25 (b) Applicability of sentencing guidelines.--The sentencing  
26 guidelines promulgated by the Pennsylvania Commission on  
27 Sentencing shall not supersede the mandatory penalty of this  
28 section.

29 SECTION 2. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ: <—

30 § 3735.1. AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE

1                   INFLUENCE.

2           (A) OFFENSE DEFINED.--ANY PERSON WHO UNINTENTIONALLY                   <—  
3 NEGLIGENTLY CAUSES SERIOUS BODILY INJURY TO ANOTHER PERSON AS                   <—  
4 THE RESULT OF A VIOLATION OF SECTION 3731 (RELATING TO DRIVING  
5 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND WHO IS  
6 CONVICTED OF VIOLATING SECTION 3731 COMMITS A FELONY OF THE  
7 SECOND DEGREE WHEN THE VIOLATION IS THE CAUSE OF THE INJURY.

8           (B) DEFINITION.--AS USED IN THIS SECTION, THE TERM "SERIOUS  
9 BODILY INJURY" MEANS ANY BODILY INJURY WHICH CREATES A  
10 SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT  
11 DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION  
12 OF ANY BODILY MEMBER OR ORGAN.

13       ~~SECTION 3.~~ ~~SECTION 3742 OF TITLE 75 IS AMENDED TO READ:~~                   <—

14 ~~§ 3742. Accidents involving death or personal injury.~~

15       ~~(a) General rule. The driver of any vehicle involved in an~~  
16 ~~accident resulting in injury or death of any person shall~~  
17 ~~immediately stop the vehicle at the scene of the accident or as~~  
18 ~~close thereto as possible but shall then forthwith return to and~~  
19 ~~in every event shall remain at the scene of the accident until~~  
20 ~~he has fulfilled the requirements of section 3744 (relating to~~  
21 ~~duty to give information and render aid). Every stop shall be~~  
22 ~~made without obstructing traffic more than is necessary.~~

23       ~~(b) Penalties.—~~

24           ~~(1) Except as otherwise provided in this section, any~~  
25 ~~person violating this section commits a misdemeanor of the~~  
26 ~~[third] first degree.~~

27           ~~(2) If the victim suffers serious bodily injury [or~~                   <—  
28 ~~death], any person violating subsection (a) commits a~~                   <—  
29 ~~[misdemeanor of the first degree.] felony of the third degree~~  
30 ~~and the sentencing court shall order the person to serve a~~

~~minimum term of imprisonment of not less than 90 days.~~

~~(3) [If the violation of subsection (a) materially contributes to any serious bodily injury suffered by the victim, any person violating subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 and to imprisonment for not less than 90 days nor more than five years.] If the victim dies, any person violating subsection (a) commits a felony of the third degree and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than one year.~~

~~[(4) If the violation of subsection (a) materially contributes to the death of the victim, any person violating subsection (a) commits a felony of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$15,000 and to imprisonment for not less than one year nor more than seven years.]~~

~~(c) Authority of sentencing court. There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection [(b)(3) or (4)] (b)(2) or (3) or to place such offender on probation or to suspend sentence. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.~~

~~(d) Definitions. As used in this section, the term "serious <— bodily injury" means any bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.~~

1       Section ~~3-4~~ 3. Title 75 is amended by adding a section to       <—  
2 read:  
3   § 3742.1. Accidents involving death or personal injury while  
4       not properly licensed.  
5       (a) Offense defined.--A person commits an offense under this  
6   section if the person was the driver of any vehicle and caused  
7   an accident resulting in injury or death of any person and whose  
8   operating ~~privileges~~ PRIVILEGE at the time of the accident ~~had~~       <—  
9   ~~been~~ IS CANCELED, RECALLED, revoked or suspended PURSUANT TO       <—  
10 SECTION 1532 (RELATING TO REVOCATION OR SUSPENSION OF OPERATING  
11 PRIVILEGE) and not ~~reinstated at the time of the accident~~       <—  
12 RESTORED or who at the time of the accident had not been issued       <—  
13 a valid ~~operator's~~ DRIVER'S license or ~~permit~~.       <—  
14       (b) Penalties.--  
15       (1) Except as otherwise provided in this section, any  
16   person violating subsection (a) commits a misdemeanor of the  
17   second degree if at the time of the accident the person's  
18   operating ~~privileges~~ ~~had been~~ PRIVILEGE IS CANCELED,       <—  
19   RECALLED, revoked or suspended PURSUANT TO SECTION 1532 and       <—  
20   not ~~reinstated~~ RESTORED. If the person had not been issued a       <—  
21   valid ~~operator's~~ license or ~~permit~~ DRIVER'S LICENSE, the       <—  
22   offense is a misdemeanor of the third degree.  
23       (2) If the victim suffers serious bodily injury or  
24   death, any person violating subsection (a) commits a felony  
25   of the third degree if AT THE TIME OF THE ACCIDENT the       <—  
26   person's operating ~~privileges~~ ~~had been~~ PRIVILEGE IS CANCELED,       <—  
27   RECALLED, revoked or suspended PURSUANT TO SECTION 1532 and       <—  
28   not ~~reinstated at the time of the accident~~ RESTORED. If the       <—  
29   person had not been issued a valid ~~operator's~~ license or       <—  
30   ~~permit~~ DRIVER'S LICENSE, the offense is a misdemeanor of the       <—

first degree.

(3) Any motor vehicle, as defined in section 102  
(relating to definitions), used in the commission of an  
offense under this section may be deemed contraband and  
forfeited in accordance with the provisions set forth in 18  
Pa.C.S. § 6501(d) (relating to scattering rubbish) if the  
driver's operating ~~privileges had been~~ PRIVILEGE IS CANCELED, <—  
RECALLED, revoked or suspended PURSUANT TO SECTION 1532 and <—  
not ~~reinstated~~ RESTORED at the time of the accident. <—

(c) Definitions.--As used in this section, the term "serious  
bodily injury" means any bodily injury which creates a  
substantial risk of death or which causes serious, permanent  
disfigurement or protracted loss or impairment of the function  
of any bodily member or organ.

SECTION 4. SECTION 4962 OF TITLE 75 IS AMENDED BY ADDING A <—  
SUBSECTION TO READ:

§ 4962. CONDITIONS OF PERMITS AND SECURITY FOR DAMAGES.

\* \* \*

(F.1) AUTHORIZED TRAVEL PERIODS.--A PERMITTED VEHICLE,  
COMBINATION OR LOAD WHICH DOES NOT EXCEED 100,000 POUNDS GROSS  
WEIGHT AND WHICH DOES NOT EXCEED A SIZE LIMITATION UNDER  
SUBCHAPTER B (RELATING TO WIDTH, HEIGHT AND LENGTH) MAY BE  
DRIVEN, HAULED OR TOWED 24 HOURS A DAY, SEVEN DAYS A WEEK IF THE  
VEHICLE OR COMBINATION IS OPERATED AT PREVAILING SPEEDS.  
MOVEMENT UNDER THIS SUBSECTION IS NOT AUTHORIZED DURING ANY OF  
THE FOLLOWING:

(1) A HOLIDAY PERIOD SPECIFIED IN DEPARTMENT REGULATIONS  
OR IN THE PERMIT.

(2) INCLEMENT WEATHER, AS DEFINED IN DEPARTMENT  
REGULATIONS.

1       \* \* \*

2       SECTION 5.   SECTION 4968(A)(3.1) OF TITLE 75 IS AMENDED AND  
3   THE SUBSECTION IS AMENDED BY ADDING A PARAGRAPH TO READ:

4   § 4968.   PERMIT FOR MOVEMENT DURING COURSE OF MANUFACTURE.

5       (A)   ANNUAL PERMIT.--AN ANNUAL PERMIT MAY BE ISSUED  
6   AUTHORIZING MOVEMENT ON HIGHWAYS OF BOATS, TRAILERS, MOBILE  
7   HOMES, MODULAR HOUSING UNITS AND UNDERCARRIAGES, HELICOPTERS,  
8   HOT INGOTS, BASIC OXYGEN FURNACE LANCES, RAILWAY EQUIPMENT AND  
9   RAILS OR OTHER ARTICLES, VEHICLES OR COMBINATIONS WHICH EXCEED  
10  THE MAXIMUM HEIGHT, WIDTH OR LENGTH SPECIFIED IN SUBCHAPTER B  
11  (RELATING TO WIDTH, HEIGHT AND LENGTH) OR COMBINATIONS CARRYING  
12  RAW MILK OR FLAT-ROLLED STEEL COILS OR HOT INGOTS WHICH EXCEED  
13  THE MAXIMUM WEIGHT SPECIFIED IN SUBCHAPTER C (RELATING TO  
14  MAXIMUM WEIGHTS OF VEHICLES) WHILE THEY ARE IN THE COURSE OF  
15  MANUFACTURE AND ENTIRELY WITHIN THE CONTROL OF THE MANUFACTURER,  
16  SUBJECT TO THE FOLLOWING PROVISIONS:

17       \* \* \*

18       (3.1)   A COMBINATION OF VEHICLES WHICH IS HAULING RAW  
19   MILK TO A MANUFACTURER [IN THIS COMMONWEALTH] MAY BE  
20   PERMITTED BY THE DEPARTMENT AND LOCAL AUTHORITIES TO MOVE  
21   UPON SPECIFIED HIGHWAYS WITHIN THEIR RESPECTIVE JURISDICTION  
22   24 HOURS A DAY, SEVEN DAYS A WEEK, EXCEPT DURING INCLEMENT  
23   WEATHER AS DEFINED IN DEPARTMENT REGULATIONS, IF THE GROSS  
24   WEIGHT DOES NOT EXCEED 95,000 POUNDS AND IF THE WEIGHT OF ANY  
25   NONSTEERING AXLE DOES NOT EXCEED 21,000 POUNDS. NO PERMIT MAY  
26   BE ISSUED FOR THIS TYPE OF MOVEMENT UPON AN INTERSTATE  
27   HIGHWAY.

28       \* \* \*

29       (3.3)   A COMBINATION OF VEHICLES WHICH IS HAULING BASIC  
30   OXYGEN FURNACE LANCES MAY BE PERMITTED BY THE DEPARTMENT AND

1 LOCAL AUTHORITIES TO MOVE UPON SPECIFIED HIGHWAYS WITHIN  
2 THEIR RESPECTIVE JURISDICTIONS IF THE OVERALL LENGTH DOES NOT  
3 EXCEED 90 FEET. A VEHICLE OPERATING UNDER A PERMIT AUTHORIZED  
4 UNDER THIS SECTION MAY BE DRIVEN 24 HOURS A DAY, SEVEN DAYS A  
5 WEEK, IF THE VEHICLE OR COMBINATION IS OPERATED AT PREVAILING  
6 SPEEDS. MOVEMENT UNDER THIS PARAGRAPH IS NOT AUTHORIZED  
7 DURING ANY OF THE FOLLOWING:

8 (I) A HOLIDAY PERIOD SPECIFIED IN DEPARTMENT  
9 REGULATIONS OR IN THE PERMIT.

10 (II) INCLEMENT WEATHER, AS DEFINED IN DEPARTMENT  
11 REGULATIONS.

12 \* \* \*

13 SECTION 6. SECTION 4974 OF TITLE 75 IS AMENDED TO READ:

14 § 4974. PERMIT FOR MOVEMENT OF CONTAINERIZED CARGO.

15 AN ANNUAL PERMIT MAY BE ISSUED AUTHORIZING THE MOVEMENT ON  
16 HIGHWAYS OF CONTAINERIZED CARGO WHICH EXCEEDS THE MAXIMUM  
17 VEHICLE GROSS OR MAXIMUM AXLE WEIGHTS SPECIFIED IN SUBCHAPTER C  
18 (RELATING TO MAXIMUM WEIGHTS OF VEHICLES). THE WEIGHT OF ANY  
19 [VEHICLE] COMBINATION PERMITTED UNDER THIS SECTION SHALL NOT  
20 EXCEED 90,000 POUNDS OVERALL GROSS WEIGHT AND 21,000 POUNDS ON  
21 ANY AXLE. A BRAKE RETARDER IS NOT REQUIRED ON A COMBINATION  
22 PERMITTED UNDER THIS SECTION WHILE THE COMBINATION IS OPERATED  
23 WITHIN THE COUNTIES WHICH COMPRISE THE DISTRICT OF A PORT OF A  
24 CITY OF THE FIRST CLASS.

25 SECTION 7. SECTION 4975 OF TITLE 75, ADDED DECEMBER 20, 1995  
26 (P.L.669, NO.75), IS AMENDED TO READ:

27 § 4975. PERMIT FOR MOVEMENT OF SPECIAL MOBILE EQUIPMENT.

28 AN ANNUAL PERMIT MAY BE ISSUED AUTHORIZING THE HAULING OR  
29 TOWING OF A PIECE OF SPECIAL MOBILE EQUIPMENT WHICH DOES NOT  
30 EXCEED NINE FEET TWO INCHES IN WIDTH ON FREEWAYS, PROVIDED THE



1 PERMITTED VEHICLE OR COMBINATION MAINTAINS A MINIMUM SPEED OF 40  
2 MILES PER HOUR.

3 SECTION 8. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:

4 § 4976. PERMIT FOR MOVEMENT OF DOMESTIC ANIMAL FEED.

5 AN ANNUAL PERMIT MAY BE ISSUED AUTHORIZING THE MOVEMENT ON  
6 HIGHWAYS OF DOMESTIC ANIMAL FEED, IN BULK, WHICH EXCEEDS THE  
7 MAXIMUM VEHICLE GROSS WEIGHT SPECIFIED IN SUBCHAPTER C (RELATING  
8 TO MAXIMUM WEIGHTS OF VEHICLES). THE WEIGHT OF ANY VEHICLE  
9 PERMITTED UNDER THIS SECTION MAY NOT EXCEED 95,000 POUNDS  
10 OVERALL GROSS WEIGHT AND THE WEIGHT ON ANY NONSTEERING AXLE DOES  
11 NOT EXCEED 21,000 POUNDS. NO PERMIT MAY BE ISSUED FOR THIS TYPE  
12 OF MOVEMENT UPON AN INTERSTATE HIGHWAY.

13 Section ~~4-5~~ 9. This act shall take effect in 60 days.

<—