

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of
1999

INTRODUCED BY O'BRIEN, READSHAW, LEDERER, BELFANTI, LAUGHLIN,
FARGO, COY, WOJNAROSKI, E. Z. TAYLOR, TRELLO, PESCI,
GIGLIOTTI, MELIO, J. TAYLOR, TRUE, SOLOBAY, ORIE, ROSS,
HARHAI, BUNT AND BELARDI, JANUARY 27, 1999

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 1999

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for driving under the influence.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Section 3731(e) of Title 75 of the Pennsylvania
6 Consolidated Statutes is amended by adding paragraphs to read:

7 § 3731. Driving under influence of alcohol or controlled
8 substance.

9 * * *

10 (e) Penalty.--

11 * * *

12 (1.1) The court, as part of its sentence of any person
13 convicted of a misdemeanor of the first degree under this
14 section, shall impose a mandatory maximum term of
15 imprisonment of not less than four years. Nothing in this
16 subsection shall be construed to authorize a sentence which
17 exceeds the maximum term prescribed by law for misdemeanors

1 of the first degree.

2 (1.2) Notwithstanding the length of any maximum term of
3 imprisonment, the sentencing judge may in the judge's
4 discretion subject any person convicted of a violation of
5 this section to the supervision of the county parole system.

6 * * *

7 Section 2. Title 75 is amended by adding a section to read:

8 § 3731.2. Parole conditions for certain offenses.

9 (a) General rule.--A person convicted of a third or
10 subsequent offense for a violation of section 3731 (relating to
11 driving under influence of alcohol or controlled substance)
12 shall be eligible for parole in accordance with the terms and
13 conditions prescribed in this section following the expiration
14 of that person's mandatory minimum term of imprisonment.

15 (b) Refrain from alcohol, etc.--The offender shall refrain
16 from the use of alcohol or illegal controlled substances and
17 shall refrain from the abuse of prescription drugs, over-the-
18 counter drugs or any other substances as a condition of parole.

19 (c) Assessment.--The offender shall be assessed for alcohol
20 and drug abuse and addiction prior to being released on parole.
21 The assessment shall be conducted by one of the following: the
22 Department of Health or its designee; the county agency with
23 responsibility for county drug and alcohol treatment programs or
24 its designee; or the clinical personnel of a facility licensed
25 by the Department of Health for the conduct of drug and alcohol
26 treatment programs. This assessment shall consider issues of
27 public safety and shall include recommendations for length of
28 stay, levels of care and follow-up care and monitoring. All
29 persons assessed to be in need of alcohol and/or drug treatment
30 must participate in and cooperate with a licensed drug and

alcohol treatment program in accordance with the assessment as a condition of parole.

(d) Treatment programs.--Nothing in this section shall prevent a treatment program from refusing to accept a criminal justice referral if the program administrator deems the offender to be inappropriate for admission to the program. Additionally, a treatment program shall retain the right to immediately discharge into the custody of the assigned parole officer any offender who fails to comply with program rules and treatment expectations or who refuses to constructively engage in the treatment process.

(e) Progress reports.--If a parolee has been ordered to participate in a treatment program under this section, the designated treatment program shall report periodically to the assigned parole officer on the parolee's progress in the treatment program. The designated treatment program shall promptly notify the parole officer if the parolee:

(1) fails to comply with program rules and treatment expectations;

(2) refuses to constructively engage in the treatment process; or

(3) without authorization terminates participation in the treatment program.

Upon notification, the parole officer shall promptly report the parolee's actions to the appropriate parole authority, which shall immediately schedule a revocation hearing at which the appropriate parole authority shall give due consideration to the recommendation of the parole officer and the treatment program.

(f) Enforcement.--Notwithstanding any other provision of law, any offender ordered to participate in a treatment program

under this section who fails to comply with program rules and treatment expectations, who refuses to constructively engage in the treatment process or who without authorization terminates participation in the treatment program shall have the offender's parole, prerelease, work release or any other release status revoked and shall be ineligible for parole, prerelease, work release or any other release from the correctional facility prior to the expiration of the offender's maximum term unless or until the offender is permitted to be readmitted to a treatment program under subsection (c). Nothing in this section shall be construed to grant a legal right to parole to a person previously ineligible for parole under this subsection, on the grounds that the person is currently prepared to participate in, comply with and constructively engage in the treatment process. Under such circumstances, parole or reparole of the person shall be at the appropriate parole authority's discretion.

(g) Follow-up.--After an offender has completed the treatment program, the parole officer shall take reasonable steps to ensure that the offender does not use alcohol or illegal controlled substances or abuse prescription drugs, over-the-counter drugs or any other substances. These reasonable steps may include, but are not limited to, requiring verification of regular participation in 12-step meetings, chemical testing and periodic reassessment of the person by the treatment program.

(h) Fees.--The appropriate parole authority shall impose upon a person subject to this section reasonable fees to cover the cost of any of the following:

(1) Any chemical testing of the person required or ordered under this section.

1 (2) Any assessment of the person required or ordered
2 under this section.

3 (3) Any drug or alcohol treatment provided in accordance
4 with such an assessment.

5 If the appropriate parole authority finds the offender to be
6 indigent, it shall require the offender to pay as much of the
7 fee as is consistent with the offender's ability to pay.

8 (i) Additional funding.--In order to support and augment the
9 diagnostic assessment and treatment services provided under this
10 section, the Department of Health, the Department of
11 Transportation and the Pennsylvania Commission on Crime and
12 Delinquency shall seek all available Federal funding, including,
13 but not limited to, funds available through the United States
14 Department of Justice, the National Institute of Justice, the
15 National Highway Traffic Safety Administration and the
16 Department of Health and Human Services.

17 Section 3. This act shall take effect in 60 days.