

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1285 Session of
2005

INTRODUCED BY McCALL, GEIST, BELFANTI, CALTAGIRONE, FABRIZIO,
GEORGE, GOODMAN, JAMES, PRESTON, READSHAW, REICHLEY,
SCAVELLO, THOMAS, WALKO, YOUNGBLOOD AND MELIO, APRIL 6, 2005

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, SEPTEMBER 26, 2006

AN ACT

1 Amending ~~Title~~ TITLES 74 (Transportation) AND 75 (VEHICLES) of <—
2 the Pennsylvania Consolidated Statutes, providing for
3 administrative practice and procedure; ~~and making a related~~ <—
4 ~~repeal~~. FURTHER PROVIDING FOR PERIOD OF REVOCATION OR <—
5 SUSPENSION OF OPERATING PRIVILEGE; AND ABROGATING A
6 REGULATION.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 74 of the Pennsylvania Consolidated
10 Statutes is amended by adding a part to read:

11 PART I

12 PRELIMINARY PROVISIONS

13 Chapter

14 1. Preliminary Provisions (Reserved)

15 3. Administrative Practice and Procedure

16 CHAPTER 1

17 PRELIMINARY PROVISIONS (Reserved)

18 CHAPTER 3

ADMINISTRATIVE PRACTICE AND PROCEDURE

Sec.

301. Definitions.

~~302. Administrative law judges.~~

~~303. Procedure.~~

302. USE OF HEARING OFFICERS.

§ 301. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Transportation of the Commonwealth.

~~§ 302. Administrative law judges.~~

~~(a) General rule. The office of administrative law judge to the department is created.~~

~~(b) Appointment. The Governor shall appoint from a list of qualified candidates submitted by the State Civil Service Commission after appropriate examination under the act of August 5, 1941 (P.L. 752, No. 286), known as the Civil Service Act, as many administrative law judges as the department, with the approval of the Governor, deems necessary for activities and proceedings before the department. The Governor shall designate one of the civil service appointees as the chief administrative law judge.~~

~~(c) Qualifications. Administrative law judges appointed under this section shall be learned in the law and shall be members in good standing of the bar of the Supreme Court of Pennsylvania.~~

~~(d) Compensation. Compensation for the administrative law judges shall be established by the department EXECUTIVE BOARD.~~

~~(e) Performance. Administrative law judges shall devote full time to their official duties and shall perform no duties inconsistent with their duties and responsibilities as administrative law judges.~~

~~(f) Employment security. Administrative law judges appointed under this section shall be afforded employment security as provided by the Civil Service Act.~~

~~(g) Staff. The department may appoint secretaries and legal or technical advisors to assist each judge in the performance of his duties or may assign personnel from any of the other bureaus within the department.~~

~~§ 303. Procedure.~~

~~(a) Jurisdiction. An administrative law judge shall have the power and duty to hold hearings and issue adjudications under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) on the following activities and proceedings of the department:~~

~~(1) Appeals from the department's denial or recall of an occupational limited license.~~

~~(2) Appeals from the department's cancellation, denial or recall of a probationary license.~~

~~(3) Requests for record review under 75 Pa.C.S. § 1516 (relating to department records).~~

~~(4) Hearings to request credit toward serving driving privilege or vehicle registration suspensions.~~

~~(5) Appeals from the department's refusal to issue a certificate of title for reasons other than failure to pay a required fee or tax in connection with or resulting from the acquisition or use of a vehicle.~~

~~(6) Matters including any of the following:~~

- ~~(i) Minimum use driveway permits.~~
- ~~(ii) Low, medium and high volume driveway permits.~~
- ~~(iii) School bus and hazardous walking routes.~~
- ~~(iv) Overweight or oversize truck hauling permits.~~
- ~~(v) Private airport permits.~~
- ~~(vi) Public airport permits.~~
- ~~(vii) Outdoor advertising sign permits.~~
- ~~(viii) Prequalification, suspension or debarment.~~
- ~~(ix) Personnel salary claims.~~
- ~~(x) Municipal reimbursements.~~
- ~~(xi) Matters pertaining to reasonable access for tractor trailer vehicle combinations.~~
- ~~(xii) Miscellaneous matters, including petitions to intervene.~~

~~(7) Any other matter as determined by the department by regulation.~~

~~(b) Appeals. An adjudication by an administrative law judge shall be considered a final order, appealable to the Commonwealth Court pursuant to 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).~~

~~Section 2. The Department of Transportation shall do all of the following:~~

~~(1) Develop a policy statement to implement the addition of 74 Pa.C.S. Ch. 3 within 180 days of the effective date of this section. The policy statement shall remain in effect until the regulations promulgated under paragraph (2) take effect.~~

~~(2) Promulgate regulations implementing the addition of 74 Pa.C.S. Ch. 3 within one year of the effective date of this section.~~

~~Section 3. The provisions of 67 Pa. Code Ch. 491 (relating to administrative practice and procedure) are abrogated.~~

~~Section 4. This act shall take effect as follows:~~

~~(1) The following provisions shall take effect immediately:~~

~~(i) Section 2 of this act.~~

~~(ii) This section.~~

~~(2) The remainder of this act shall take effect upon publication of the policy statement under section 2(1) of this act.~~

§ 302. USE OF HEARING OFFICERS.

<—

(A) GENERAL RULE.--THE DEPARTMENT MAY NOT UTILIZE THE SERVICES OF EMPLOYEES OF THE DEPARTMENT AS HEARING OFFICERS WITH RESPECT TO THE FOLLOWING ACTIVITIES AND PROCEEDINGS OF THE DEPARTMENT:

(1) APPEALS FROM THE DEPARTMENT'S DENIAL OR RECALL OF AN OCCUPATIONAL LIMITED LICENSE.

(2) APPEALS FROM THE DEPARTMENT'S CANCELLATION, DENIAL OR RECALL OF A PROBATIONARY LICENSE.

(3) REQUESTS FOR RECORD REVIEW UNDER 75 PA.C.S. § 1516 (RELATING TO DEPARTMENT RECORDS).

(4) HEARINGS TO REQUEST CREDIT TOWARD SERVING DRIVING PRIVILEGE OR VEHICLE REGISTRATION SUSPENSIONS.

(5) APPEALS FROM THE DEPARTMENT'S REFUSAL TO ISSUE A CERTIFICATE OF TITLE FOR REASONS OTHER THAN FAILURE TO PAY A REQUIRED FEE OR TAX IN CONNECTION WITH OR RESULTING FROM THE ACQUISITION OR USE OF A VEHICLE.

(6) ANY OTHER MATTER AS DETERMINED BY THE DEPARTMENT BY REGULATION.

(B) SCOPE OF AUTHORITY.--A HEARING OFFICER UTILIZED BY THE

1 DEPARTMENT UNDER SUBSECTION (A) SHALL BE VESTED WITH THE SAME
2 AUTHORITY AND DUTIES AS A DEPARTMENT HEARING OFFICER UNDER THE
3 PROVISIONS OF 67 PA. CODE CH. 491 (RELATING TO ADMINISTRATIVE
4 PRACTICE AND PROCEDURE).

5 (C) APPEALS.--AN ADJUDICATION BY A HEARING OFFICER UTILIZED
6 BY THE DEPARTMENT UNDER SUBSECTION (A) SHALL BE APPEALABLE IN
7 ACCORDANCE WITH 67 PA. CODE § 491.12 (RELATING TO EXCEPTIONS).

8 SECTION 2. SECTION 1541 OF TITLE 75 IS AMENDED BY ADDING A
9 SUBSECTION TO READ:

10 § 1541. PERIOD OF DISQUALIFICATION, REVOCATION OR SUSPENSION OF
11 OPERATING PRIVILEGE.

12 * * *

13 (E) REQUEST FOR HEARING.--A PERSON WHOSE OPERATING PRIVILEGE
14 HAS BEEN SUSPENDED OR REVOKED MAY REQUEST AT ANY TIME DURING THE
15 SUSPENSION OR REVOCATION, AND THE DEPARTMENT SHALL PROVIDE, A
16 HEARING IF THE PERSON BELIEVES THAT CREDIT TOWARD THE PERSON'S
17 SUSPENSION OR REVOCATION HAS NOT BEEN GIVEN BY THE DEPARTMENT
18 UNDER SECTION 1540. THE DEPARTMENT SHALL ISSUE ITS FINAL RULING
19 WITHIN 60 DAYS FOLLOWING THE HEARING OR THE SUBMISSION OF ANY
20 POSTHEARING FILINGS.

21 SECTION 3. THE PROVISIONS OF 67 PA. CODE § 491.3(B)(2) ARE
22 ABROGATED.

23 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.