

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1523 Session of 2009

INTRODUCED BY KULA, MAHONEY, STABACK, CARROLL, CLYMER, D. COSTA, CREIGHTON, CUTLER, GERGELY, HALUSKA, LONGIETTI, MILLARD, MURPHY, MURT, O'NEILL, PAYNE, PEIFER, READSHAW, SIPTROTH, STURLA, SWANGER, VULAKOVICH, WATSON, YOUNGBLOOD, HORNAMAN, MELIO, BEYER AND GINGRICH, MAY 26, 2009

AS REPORTED FROM COMMITTEE ON GAME AND FISHERIES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 17, 2009

AN ACT

1 Amending Title 34 (Game) of the Pennsylvania Consolidated
2 Statutes, in protection of property and persons, further
3 providing for hunting or furtaking prohibited while under
4 influence of alcohol or controlled substance and for chemical
5 test to determine amount of alcohol.

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

8 Section 1. Sections 2501(a)(4) and ~~(a.1)(1)(i)~~ (A.1) and
9 2502(a) and (d)(2) and (3) of Title 34 of the Pennsylvania



10 Consolidated Statutes are amended to read:

11 § 2501. Hunting or furtaking prohibited while under influence
12 of alcohol or controlled substance.

13 (a) General rule.--It is unlawful to hunt or take game,
14 furbearers or wildlife or aid, abet, assist or conspire to hunt
15 or take game, furbearers or wildlife anywhere in this
16 Commonwealth while in possession of a firearm of any kind or a
17 bow and arrow if:

1 * * *

2 (4) the amount of alcohol by weight in the blood of:


3 (i) an adult is [0.10%] 0.08% or greater; or

4 (ii) a minor is 0.02% or greater.

5 (a.1) Prima facie evidence.--

6 (1) It is prima facie evidence that:

7 (i) an adult had [0.10%] 0.08% or more by weight of
8 alcohol in his or her blood at the time of hunting or
9 taking of game, furbearers or wildlife or the aiding,
10 abetting, assisting or conspiring to hunt or take game,
11 furbearers or wildlife if the amount of alcohol by weight
12 in the blood of the person is equal to or greater than
13 [0.10%] 0.08% at the time a chemical test is performed on
14 a sample of the person's breath, blood or urine; or

15 * * * 

16 (II) A MINOR HAD 0.02% OR MORE BY WEIGHT OF ALCOHOL
17 IN HIS OR HER BLOOD AT THE TIME OF HUNTING OR TAKING OF
18 GAME, FURBEARERS OR WILDLIFE OR THE AIDING, ABETTING,
19 ASSISTING OR CONSPIRING TO HUNT OR TAKE GAME, FURBEARERS
20 OR WILDLIFE IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE
21 BLOOD OF THE MINOR IS EQUAL TO OR GREATER THAN 0.02% AT
22 THE TIME A CHEMICAL TEST IS PERFORMED ON A SAMPLE OF THE
23 MINOR'S BREATH, BLOOD OR URINE.

24 (2) FOR THE PURPOSE OF THIS SECTION, THE CHEMICAL TEST
25 OF THE SAMPLE OF THE PERSON'S OR MINOR'S BREATH, BLOOD OR
26 URINE SHALL BE FROM A SAMPLE OBTAINED:

27 (I) WITHIN [THREE] TWO HOURS AFTER THE PERSON OR
28 MINOR HUNTED OR TOOK GAME, FURBEARERS OR WILDLIFE OR
29 AIDED, ABETTED, ASSISTED OR CONSPIRED TO HUNT OR TAKE
30 GAME, FURBEARERS OR WILDLIFE; OR

(II) WITHIN A REASONABLE ADDITIONAL TIME AFTER THE PERSON OR MINOR HUNTED OR TOOK GAME, FURBEARERS OR WILDLIFE OR AIDED, ABETTED, ASSISTED OR CONSPIRED TO HUNT OR TAKE GAME, FURBEARERS OR WILDLIFE IF THE CIRCUMSTANCES OF THE INCIDENT PREVENTED COLLECTING THE SAMPLE WITHIN [THREE] TWO HOURS.

* * *

§ 2502. Chemical test to determine amount of alcohol.

(a) [General rule] Consent to and administration of chemical test.--

(1) Any person who hunts or takes or attempts, aids, abets, assists or conspires to hunt or take game, furbearers or wildlife shall be deemed to have given consent to a chemical test of breath, blood or urine for the purpose of determining the alcoholic content of blood or the presence of a controlled substance if any officer whose duty it is to enforce this title shall have reasonable grounds to believe the person to have been hunting or taking, or assisting or attempting to hunt or take, game, furbearers or wildlife while under the influence of alcohol or a controlled substance.

(2) The test shall be administered by personnel and equipment approved by regulation of the commission. The commission may also promulgate regulations otherwise relating to the administration of this section.

* * *

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

* * *

(2) That the amount of alcohol by weight in the blood of

1 the person tested is in excess of 0.05% but less than [0.10%]
2 0.08%, this fact shall not give rise to any presumption that
3 the person tested was or was not under the influence of
4 alcohol, but this fact may be considered with other competent
5 evidence in determining whether the person was or was not
6 under the influence of alcohol.

7 (3) That the amount of alcohol by weight in the blood of
8 the person tested is [0.10%] 0.08% or more, it shall be
9 presumed that the defendant was under the influence of
10 alcohol.

11 * * *

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