

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 567 Session of 2011

INTRODUCED BY SOLOBAY, WOZNIAK, COSTA, BOSCOLA, ERICKSON,  
FONTANA, HUGHES, KASUNIC, TARTAGLIONE, WAUGH AND PIPPY,  
FEBRUARY 18, 2011

REFERRED TO TRANSPORTATION, FEBRUARY 18, 2011

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, further providing for revocation of habitual  
3 offender's license, for driving while operating privilege is  
4 suspended or revoked, for permitting violation of title, for  
5 homicide by vehicle and for habitual offenders.

6 This act shall be referred to as Alex's Law.

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

9 Section 1. Sections 1542, 1543 and 1575 of Title 75 of the  
10 Pennsylvania Consolidated Statutes are amended to read:

11 § 1542. Revocation of habitual offender's license.

12 (a) General rule.--The department shall revoke the operating  
13 privilege of any person found to be a habitual offender pursuant  
14 to the provisions of this section. A "habitual offender" shall  
15 be any person whose driving record, as maintained in the  
16 department, shows that such person has accumulated the requisite  
17 number of convictions for the separate and distinct offenses  
18 described and enumerated in subsection (b) committed after the  
19 effective date of this title and within any period of five years

1 thereafter.

2 (b) Offenses enumerated.--Three convictions arising from  
3 separate acts of any one or more of the following offenses  
4 committed by any person shall result in such person being  
5 designated as a habitual offender:

6 (1) Any violation of Subchapter B of Chapter 37  
7 (relating to serious traffic offenses).

8 (1.1) Any violation of Chapter 38 (relating to driving  
9 after imbibing alcohol or utilizing drugs) except for  
10 sections 3808(a)(1) and (b) (relating to illegally operating  
11 a motor vehicle not equipped with ignition interlock) and  
12 3809 (relating to restriction on alcoholic beverages).

13 (1.2) Any violation of section [1543(b)(1.1)] 1543(b)  
14 (relating to driving while operating privilege is suspended  
15 or revoked).

16 (2) Any violation of section 3367 (relating to racing on  
17 highways).

18 (3) Any violation of section 3742 (relating to accidents  
19 involving death or personal injury).

20 (3.1) Any violation of section 3742.1 (relating to  
21 accidents involving death or personal injury while not  
22 properly licensed).

23 (4) Any violation of section 3743 (relating to accidents  
24 involving damage to attended vehicle or property).

25 (c) Accelerative Rehabilitative Disposition as an offense.--  
26 Acceptance of Accelerative Rehabilitative Disposition for any  
27 offense enumerated in subsection (b) shall be considered an  
28 offense for the purposes of this section.

29 (d) Period of revocation.--The operating privilege of any  
30 person found to be a habitual offender under the provisions of

1 this section shall be revoked by the department for a period of  
2 five years.

3 (e) Additional offenses.--Each additional offense committed  
4 within a period of five years, as measured from the date of any  
5 previous offense, shall result in a revocation for an additional  
6 period of two years.

7 § 1543. Driving while operating privilege is suspended or  
8 revoked.

9 (a) Offense defined.--Except as provided in subsection (b),  
10 any person who drives a motor vehicle on any highway or  
11 trafficway of this Commonwealth after the commencement of a  
12 suspension, revocation or cancellation of the operating  
13 privilege and before the operating privilege has been restored  
14 is guilty of a summary offense and shall, upon conviction, be  
15 sentenced to pay a fine of \$200.

16 (b) Certain offenses.--

17 (1) A person who drives a motor vehicle on a highway or  
18 trafficway of this Commonwealth at a time when the person's  
19 operating privilege is suspended or revoked as a condition of  
20 acceptance of Accelerated Rehabilitative Disposition for a  
21 violation of section 3802 (relating to driving under  
22 influence of alcohol or controlled substance) or the former  
23 section 3731 (relating to driving under influence of alcohol  
24 or controlled substance), because of a violation of section  
25 1547(b)(1) (relating to [suspension for refusal] chemical  
26 testing to determine amount of alcohol or controlled  
27 substance) or 3802 or former section 3731 or is suspended  
28 under section 1581 (relating to Driver's License Compact) for  
29 an offense substantially similar to a violation of section  
30 3802 or former section 3731 shall, upon conviction, be guilty

1 of a summary offense and shall be sentenced to pay a fine of  
2 \$500 and to undergo imprisonment for a period of not less  
3 than 60 days nor more than 90 days.

4 (1.1) (i) A person who has an amount of alcohol by  
5 weight in his blood that is equal to or greater than .02%  
6 at the time of testing or who at the time of testing has  
7 in his blood any amount of a Schedule I or nonprescribed  
8 Schedule II or III controlled substance, as defined in  
9 the act of April 14, 1972 (P.L.233, No.64), known as The  
10 Controlled Substance, Drug, Device and Cosmetic Act, or  
11 its metabolite and who drives a motor vehicle on any  
12 highway or trafficway of this Commonwealth at a time when  
13 the person's operating privilege is suspended or revoked  
14 as a condition of acceptance of Accelerated  
15 Rehabilitative Disposition for a violation of section  
16 3802 or former section 3731 or because of a violation of  
17 section 1547(b)(1) or 3802 or former section 3731 or is  
18 suspended under section 1581 for an offense substantially  
19 similar to a violation of section 3802 or former section  
20 3731 shall, upon a first conviction, be guilty of a  
21 summary offense and shall be sentenced to pay a fine of  
22 \$1,000 and to undergo imprisonment for a period of not  
23 less than 90 days.

24 (ii) A second violation of this paragraph shall  
25 constitute a misdemeanor of the third degree, and upon  
26 conviction thereof the person shall be sentenced to pay a  
27 fine of \$2,500 and to undergo imprisonment for not less  
28 than six months.

29 (iii) A third or subsequent violation of this  
30 paragraph shall constitute a misdemeanor of the first

1 degree, and upon conviction thereof the person shall be  
2 sentenced to pay a fine of \$5,000 and to undergo  
3 imprisonment for not less than two years.

4 (2) This subsection shall apply to any person against  
5 whom one of these suspensions has been imposed whether the  
6 person is currently serving this suspension or whether the  
7 effective date of suspension has been deferred under any of  
8 the provisions of section 1544 (relating to additional period  
9 of revocation or suspension). This provision shall also apply  
10 until the person has had the operating privilege restored.  
11 This subsection shall also apply to any revocation imposed  
12 pursuant to section 1542 (relating to revocation of habitual  
13 offender's license) if any of the enumerated offenses was for  
14 a violation of section 3802 or former section 3731 or for an  
15 out-of-State offense that is substantially similar to a  
16 violation of section 3802 or former section 3731, for which a  
17 revocation is imposed under section 1581.

18 (3) Notwithstanding any other provision of law to the  
19 contrary, if the police suspect that a driver may be charged  
20 under this subsection, chemical testing shall be administered  
21 under section 1547.

22 (c) Suspension or revocation of operating privilege.--Upon  
23 receiving a certified record of the conviction of any person  
24 under this section, the department shall suspend or revoke that  
25 person's operating privilege as follows:

26 (1) If the department's records show that the person was  
27 under suspension, recall or cancellation on the date of  
28 violation, and had not been restored, the department shall  
29 suspend the person's operating privilege for an additional  
30 one-year period.

1           (2) If the department's records show that the person was  
2       under revocation on the date of violation, and had not been  
3       restored, the department shall revoke the person's operating  
4       privilege for an additional two-year period.

5       (d) Citation of appropriate subsection.--Prior to filing a  
6       citation for a violation of this section with the issuing  
7       authority named in the citation, the police officer shall verify  
8       the basis for the suspension with the department. Upon receiving  
9       the verification, the officer shall cite the appropriate  
10      subsection of this section on the citation.

11      § 1575. Permitting violation of title.

12      (a) General rule.--No person shall authorize or knowingly  
13      permit a motor vehicle owned by him or under his control to be  
14      driven in violation of any of the provisions of this title.

15      (b) Penalty.--Any person violating the provisions of  
16      subsection (a) is guilty of a summary offense and is subject to  
17      the same fine as the driver of the vehicle. If the driver is  
18      convicted under section 1543 (relating to driving while  
19      operating privilege is suspended or revoked), section 3735  
20      (relating to homicide by vehicle while driving under influence)  
21      or 3802 (relating to driving under influence of alcohol or  
22      controlled substance), the person violating subsection (a) shall  
23      also be subject to suspension or revocation, as applicable,  
24      under sections 1532 (relating to [revocation or] suspension of  
25      operating privilege), 1542 (relating to revocation of habitual  
26      offender's license) and 3804(e) (relating to penalties).

27      (c) Indemnification.--In cases where a driver of a motor  
28      vehicle is required to conduct a pretrip safety inspection  
29      pursuant to department regulations and is subsequently convicted  
30      of one or more equipment violations under this title, the owner

1 of the vehicle shall indemnify the driver for any fines and  
2 costs paid if the specific equipment violation was listed on the  
3 driver's pretrip inspection report and acknowledged in writing  
4 by the owner.

5 (d) Impound of vehicle.--Any motor vehicle used in violation  
6 of section 1543(b) may be impounded for a period of 90 days if  
7 the Commonwealth proves that the registered owner knowingly  
8 permitted an individual to operate the vehicle in violation of  
9 section 1543.

10 Section 2. Section 3732 of Title 75, amended October 19,  
11 2010 (P.L.557, No.81), is amended to read:

12 § 3732. Homicide by vehicle.

13 (a) Offense.--Any person who recklessly or with gross  
14 negligence causes the death of another person while engaged in  
15 the violation of any law of this Commonwealth or municipal  
16 ordinance applying to the operation or use of a vehicle or to  
17 the regulation of traffic except section 3802 (relating to  
18 driving under influence of alcohol or controlled substance) is  
19 guilty of homicide by vehicle, a felony of the third degree,  
20 when the violation is the cause of death.

21 (b) Sentencing.--

22 (1) In addition to any other penalty provided by law, a  
23 person convicted of a violation of subsection (a) may be  
24 sentenced to an additional term not to exceed five years'  
25 confinement if at trial the prosecution proves beyond a  
26 reasonable doubt that the offense occurred in an active work  
27 zone.

28 (1.1) In addition to any other penalty provided by law,  
29 a person convicted of a violation of subsection (a) as the  
30 result of a violation of section 3325 (relating to duty of

1 driver on approach of emergency vehicle) or 3327 (relating to  
2 duty of driver in emergency response areas) and who is  
3 convicted of violating section 3325 or 3327 may be sentenced  
4 to an additional term not to exceed five years' confinement  
5 when the violation resulted in death.

6 (1.2) In addition to any other penalty provided by law,  
7 a person convicted of a violation of subsection (a) may be  
8 sentenced to an additional term not to exceed five years'  
9 imprisonment if at trial the prosecution proves beyond a  
10 reasonable doubt that the offense occurred while the driver's  
11 operating privilege was suspended or revoked for a violation  
12 of section 3802 or the former section 3731 (relating to  
13 driving under influence of alcohol or controlled substance).

14 (2) The prosecution must indicate intent to proceed  
15 under this section in the indictment or information which  
16 commences the prosecution.

17 (3) The Pennsylvania Commission on Sentencing, pursuant  
18 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for  
19 sentencing), shall provide for a sentencing enhancement for  
20 an offense under this section when the violation occurred in  
21 an active work zone or was the result of a violation of  
22 section 3325 or 3327.

23 Section 3. Section 6503.1 of Title 75 is amended to read:

24 § 6503.1. Habitual offenders.

25 (a) General rule.--A habitual offender under section 1542  
26 (relating to revocation of habitual offender's license) who  
27 drives a motor vehicle on any highway or trafficway of this  
28 Commonwealth while the habitual offender's operating privilege  
29 is suspended, revoked or canceled commits a misdemeanor of the  
30 second degree.



1     (b) Impound of vehicle.--When an officer has probable cause  
2 to believe a person has violated subsection (a), the officer  
3 shall not permit the suspected offender to drive the involved  
4 vehicle. The officer may permit the registered owner to remove  
5 the vehicle from the place of the traffic stop so long as the  
6 registered owner is properly licensed to drive the vehicle and  
7 the officer does not have probable cause to issue a citation to  
8 the registered owner for a violation of section 1575 (relating  
9 to permitting violation of title). Otherwise, the officer shall  
10 impound the vehicle.

11     (c) Forfeiture of vehicle.--Any motor vehicle used in  
12 violation of this section shall be forfeited to the Commonwealth  
13 if, upon hearing, the Commonwealth shows by a preponderance of  
14 the evidence that the registered owner operated the vehicle in  
15 violation of this section.

16     Section 4. This act shall take effect in 60 days.