

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 290 Session of 2015

INTRODUCED BY RAFFERTY, SMUCKER, SCARNATI, GREENLEAF, VULAKOVICH, AUMENT, VANCE, STACK, TEPLITZ, SCHWANK, BLAKE, DINNIMAN, PILEGGI AND ARGALL, JANUARY 16, 2015

AS AMENDED ON SECOND CONSIDERATION, JUNE 24, 2015

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 chemical testing to determine amount of alcohol or controlled
5 substance and for occupational limited license and providing
6 for ignition interlock limited license; and, in driving after
7 imbibing alcohol or utilizing drugs, further providing for
8 ignition interlock, FOR PRIOR OFFENSES and for the offense of <--
9 illegally operating a motor vehicle not equipped with
10 ignition interlock.

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

13 Section 1. Section 102 of Title 75 of the Pennsylvania
14 Consolidated Statutes is amended by adding a definition to read:
15 § 102. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this title which are applicable to specific
18 provisions of this title, the following words and phrases when
19 used in this title shall have, unless the context clearly
20 indicates otherwise, the meanings given to them in this section:

21 * * *

1 "Ignition interlock limited license." A driver's license
2 issued to an individual whose operating privilege is suspended
3 or revoked for one or more violations of section 1547 (relating
4 to chemical testing to determine amount of alcohol or controlled
5 substance) or 3802 (relating to driving under influence of
6 alcohol or controlled substance) requiring the individual to
7 operate only motor vehicles equipped with a functioning ignition
8 interlock system.

9 * * *

10 Section 2. Sections 1547(a), (c) introductory paragraph, (2)
11 and (3), (g.1), (h), (i) and (j) and 1553(a)(1), (d)(6), (7) and
12 (8), (d.1) and (d.2) of Title 75 are amended to read:

13 § 1547. Chemical testing to determine amount of alcohol or
14 controlled substance.

15 (a) General rule.--Any person who drives, operates or is in
16 actual physical control of the movement of a vehicle in this
17 Commonwealth shall be deemed to have given consent to one or
18 more chemical tests of breath[, blood or urine] or blood for the
19 purpose of determining the alcoholic content of blood or the
20 presence of a controlled substance if a police officer has
21 reasonable grounds to believe the person to have been driving,
22 operating or in actual physical control of the movement of a
23 vehicle:

24 (1) in violation of section 1543(b)(1.1) (relating to
25 driving while operating privilege is suspended or revoked),
26 3802 (relating to driving under influence of alcohol or
27 controlled substance) or 3808(a)(2) (relating to illegally
28 operating a motor vehicle not equipped with ignition
29 interlock); or

30 (2) which was involved in an accident in which the

1 operator or passenger of any vehicle involved or a pedestrian
2 required treatment at a medical facility or was killed.

3 * * *

4 (c) Test results admissible in evidence.--In any summary
5 proceeding or criminal proceeding in which the defendant is
6 charged with a violation of section 3802 or any other violation
7 of this title arising out of the same action, the amount of
8 alcohol or controlled substance in the defendant's blood, as
9 shown by chemical testing of the person's breath[, blood or
10 urine] or blood, which tests were conducted by qualified persons
11 using approved equipment, shall be admissible in evidence.

12 * * *

13 (2) (i) Chemical tests of blood [or urine], if
14 conducted by a facility located in this Commonwealth,
15 shall be performed by a clinical laboratory licensed and
16 approved by the Department of Health for this purpose
17 using procedures and equipment prescribed by the
18 Department of Health or by a Pennsylvania State Police
19 criminal laboratory. For purposes of blood [and urine]
20 testing, qualified person means an individual who is
21 authorized to perform those chemical tests under the act
22 of September 26, 1951 (P.L.1539, No.389), known as The
23 Clinical Laboratory Act.

24 (ii) For purposes of blood [and urine] testing to
25 determine blood alcohol or controlled substance content
26 levels, the procedures and equipment prescribed by the
27 Department of Health shall be reviewed within 120 days of
28 the effective date of this subparagraph and at least
29 every two years thereafter to ensure that consideration
30 is given to scientific and technological advances so that

1 testing conducted in accordance with the prescribed
2 procedures utilizing the prescribed equipment will be as
3 accurate and reliable as science and technology permit.

4 (3) Chemical tests of blood [or urine], if conducted by
5 a facility located outside this Commonwealth, shall be
6 performed:

7 (i) by a facility licensed and approved by the
8 Department of Health for this purpose; or

9 (ii) by a facility licensed to conduct the tests by
10 the state in which the facility is located and licensed
11 pursuant to the Clinical Laboratory Improvement
12 Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).

13 * * *

14 (g.1) Cost of testing.--The cost of chemical testing,
15 including the drawing of blood [and urine], performed under this
16 section shall be paid as follows:

17 (1) By the individual tested, if the individual was
18 convicted of or placed into any preadjudication program or
19 adjudicated delinquent for a violation of section 3802.

20 (2) By the requesting authority, if the individual was
21 found not guilty under section 3802 or had the charges
22 dismissed or withdrawn.

23 (h) Test by personal physician.--The person tested shall be
24 permitted to have a physician of his own choosing administer an
25 additional breath[, blood or urine] or blood chemical test and
26 the results of the test shall also be admissible in evidence.
27 The chemical testing given at the direction of the police
28 officer shall not be delayed by a person's attempt to obtain an
29 additional test.

30 (i) Request by driver for test.--Any person involved in an

1 accident or placed under arrest for a violation of section
2 1543(b) (1.1), 3802 or 3808(a) (2) may request a chemical test of
3 his breath[, blood or urine] or blood. Such requests shall be
4 honored when it is reasonably practicable to do so.

5 (j) Immunity from civil liability and reports.--No
6 physician, nurse or technician or hospital employing such
7 physician, nurse or technician, and no other employer of such
8 physician, nurse or technician shall be civilly liable for
9 withdrawing blood [or obtaining a urine sample] and reporting
10 test results to the police at the request of a police officer
11 pursuant to this section. No physician, nurse or technician or
12 hospital employing such physician, nurse or technician may
13 administratively refuse to perform such tests and provide the
14 results to the police officer except as may be reasonably
15 expected from unusual circumstances that pertain at the time the
16 request is made.

17 * * *

18 § 1553. Occupational limited license.

19 (a) Issuance.--

20 (1) The department shall issue an occupational limited
21 license under the provisions of this section to a driver
22 whose operating privileges have been suspended for a
23 violation of this title, except for an offense under section
24 3802 (relating to driving under influence of alcohol or
25 controlled substance) or under former section 3731 (relating
26 to driving under influence of alcohol or controlled
27 substance) or for a refusal to submit to chemical testing
28 under section 1547 (relating to chemical testing to determine
29 amount of alcohol or controlled substance), and is not
30 prohibited under any other provision in this section. If the

1 underlying reason for the suspension was caused by violations
2 committed while the driver was operating a commercial motor
3 vehicle, the driver shall not be issued an occupational
4 limited license for the purpose of operating a commercial
5 motor vehicle. The department shall prohibit the issuance of
6 an occupational limited license when disqualified from doing
7 so under the Commercial Motor Vehicle Safety Act of 1986
8 (Title XII of Public Law 99-570, 49 U.S.C. App. § 2701 et
9 seq.) or the Motor Carrier Safety Improvement Act of 1999
10 (Public Law 106-159, 113 Stat. 1748).

11 * * *

12 (d) Unauthorized issuance.--The department shall prohibit
13 issuance of an occupational limited license to:

14 * * *

15 [(6) Any person who has been adjudicated delinquent,
16 granted a consent decree or granted Accelerated
17 Rehabilitative Disposition for driving under the influence of
18 alcohol or controlled substance unless the suspension or
19 revocation imposed for that conviction has been fully served.

20 (7) Any person whose operating privilege has been
21 suspended for refusal to submit to chemical testing to
22 determine the amount of alcohol or controlled substance
23 unless that suspension has been fully served.

24 (8) Except as set forth in subsections (d.1) and (d.2),
25 any person who has been convicted of driving under the
26 influence of alcohol or controlled substance and whose
27 license has been suspended by the department unless the
28 suspension imposed has been fully served.]

29 * * *

30 [(d.1) Adjudication eligibility.--An individual who has been

1 convicted of an offense under section 3802 (relating to driving
2 under influence of alcohol or controlled substance) and does not
3 have a prior offense as defined in section 3806(a) (relating to
4 prior offenses) shall be eligible for an occupational limited
5 license only if the individual has served 60 days of the
6 suspension imposed for the offense.

7 (d.2) Suspension eligibility.--

8 (1) An individual whose license has been suspended for a
9 period of 18 months under section 1547(b)(1)(ii) (relating to
10 chemical testing to determine amount of alcohol or controlled
11 substance) or 3804(e)(2)(ii) (relating to penalties) shall
12 not be prohibited from obtaining an occupational limited
13 license under this section if the individual:

14 (i) is otherwise eligible for restoration;

15 (ii) has served 12 months of the suspension imposed
16 for the offense;

17 (iii) has no more than one prior offense as defined
18 in section 3806(b);

19 (iv) only operates a motor vehicle equipped with an
20 ignition interlock system as defined in section 3801
21 (relating to definitions); and

22 (v) has certified to the department under paragraph
23 (3).

24 (2) A period of ignition interlock accepted under this
25 subsection shall not count towards the one-year mandatory
26 period of ignition interlock imposed under section 3805
27 (relating to ignition interlock).

28 (3) If an individual seeks an occupational limited
29 license under this subsection, the department shall require
30 that each motor vehicle owned or registered to the person has

1 been equipped with an ignition interlock system as defined in
2 section 3801 as a condition of issuing an occupational
3 limited license with an ignition interlock restriction.]

4 * * *

5 Section 3. Title 75 is amended by adding a section to read:

6 § 1556. Ignition interlock limited license.

7 (a) Issuance.--

8 (1) The department shall issue an ignition interlock
9 limited license under this section to an individual whose
10 operating privileges have been suspended for:

11 (i) a violation under section 3802 (relating to
12 driving under influence of alcohol or controlled
13 substance) or under former section 3731 (relating to
14 driving under influence of alcohol or controlled
15 substance); or

16 (ii) a refusal to submit to chemical testing under
17 section 1547 (relating to chemical testing to determine
18 amount of alcohol or controlled substance).

19 (2) The department shall issue an ignition interlock
20 limited license under the provisions of this section only
21 upon receiving proof that ~~each motor vehicle owned or to be~~ <--
22 operated by the individual ONE MOTOR VEHICLE OWNED, LEASED OR <--
23 PRINCIPALLY OPERATED BY THE PERSON, WHICHEVER THE PERSON MOST
24 OPERATES, has been equipped with an approved ignition
25 interlock system as defined in section 3801 (relating to
26 definitions) as a condition of issuing an ignition interlock
27 limited license.

28 (3) An ignition interlock limited license issued under
29 the provisions of this section permits an individual to
30 operate motor vehicles equipped with a functioning ignition

1 interlock system, as defined in section 3801.

2 (4) Any period in which an individual holds a valid
3 ignition interlock limited license under this section shall <--
4 count on a day for day basis toward MAY BE COUNTED TOWARD <--
5 SATISFACTION OF any mandatory period of ignition interlock
6 use imposed under section 3805 (relating to ignition
7 interlock) arising from the same incident.

8 (b) Petition.--

9 (1) An applicant for an ignition interlock limited
10 license shall file a petition with the department, by
11 certified mail, on a form prescribed by the department, and
12 shall include proof that an approved ignition interlock
13 system, as defined in section 3801, has been installed in one
14 or more motor vehicles that the applicant seeks permission to
15 operate.

16 (2) The petition shall also include proof of financial
17 responsibility covering each vehicle the applicant requests
18 to be permitted to operate. The department shall promulgate
19 regulations to require additional information as well as
20 additional evidence to verify the information contained in
21 the petition.

22 (3) The applicant shall surrender the applicant's
23 driver's license in accordance with section 1540 (relating to
24 surrender of license). If the applicant's driver's license
25 has been lost or stolen, the applicant shall submit an
26 application for a replacement license, along with the proper
27 fee. If the applicant is a nonresident licensed driver, the
28 applicant shall submit an acknowledgment of suspension in
29 lieu of a driver's license. If the applicant's license has
30 expired, the applicant shall submit an application for

1 renewal, along with the appropriate fee. All fines, costs and
2 restoration fees must be paid at the time of petition.

3 (4) Consistent with the provisions of this section, if
4 the applicant is qualified, the department shall issue an
5 ignition interlock limited license within 20 days of receipt
6 of the petition and all other requirements for issuance.

7 (c) Fee.--The application fee for an ignition interlock
8 limited license shall be \$50. This fee shall be nonrefundable.

9 (d) Unauthorized issuance.--The department shall prohibit
10 issuance of an ignition interlock limited license to:

11 (1) Any individual who is not licensed to drive by the
12 Commonwealth or any other state.

13 (2) Any individual who is required by this title to take
14 an examination and who has failed to take and pass the
15 examination.

16 (3) Any individual whose operating privilege has been
17 recalled or canceled.

18 (4) Any individual who has an unsatisfied judgment
19 against the individual as the result of a motor vehicle
20 operation, until the judgment has been satisfied under the
21 provisions of section 1774 (relating to payments sufficient
22 to satisfy judgments) or an installment agreement has been
23 entered into to satisfy the judgment, as permitted under
24 section 1772(b) (relating to suspension for nonpayment of
25 judgments) or 1775 (relating to installment payment of
26 judgments), and the financial responsibility of the person
27 has been established.

28 (5) Any individual applying for an ignition interlock
29 limited license to operate a commercial motor vehicle.

30 (6) Any individual if the department is disqualified

1 from issuing the ignition interlock limited license under the
2 Commercial Motor Vehicle Safety Act of 1986 (Title XII of
3 Public Law 99-570, 49 U.S.C. § 31302 et seq.) or the Motor
4 Carrier Safety Improvement Act of 1999 (Public Law 106-159,
5 113 Stat. 1748).

6 (7) Any individual whose operating privilege has been
7 suspended under section 1532(a.1) (relating to suspension of
8 operating privilege) for conviction or adjudication of
9 delinquency based on a violation of section 3732 (relating to
10 homicide by vehicle) or 3735 (relating to homicide by vehicle
11 while driving under influence).

12 (e) Adjudication eligibility.--An individual ~~who has been~~ <--
13 ~~convicted~~ WHOSE DRIVER'S LICENSE HAS BEEN SUSPENDED FOR A <--
14 CONVICTION of an offense under section 3802 shall be eligible to
15 apply for and, if otherwise qualified, be issued an ignition
16 interlock limited license upon ~~conviction~~ RECEIPT OF NOTICE OF <--
17 THE SUSPENSION.

18 (f) Suspension eligibility.--The following shall apply:

19 (1) An individual whose license has been suspended under
20 section 1547(b) shall be eligible to apply for and, if
21 otherwise qualified, be issued an ignition interlock limited
22 license under this section if the individual:

23 (i) has served six months of the suspension imposed
24 under section 1547(b)(1)(i); or

25 (ii) has served nine months of the suspension
26 imposed under section 1547(b)(1)(ii).

27 (2) An individual whose license has been suspended under
28 section 3804(e) (relating to penalties) shall be eligible to
29 apply for and, if otherwise qualified, be issued an ignition
30 interlock limited license under this section if the

1 individual:

2 (i) has not had a prior offense, as defined under
3 section 3806(a) (relating to prior offenses), within the
4 past 10 years. The individual shall be immediately
5 eligible for a suspension imposed under section 3804(e)
6 (2)(i);

7 (ii) has served six months of the suspension imposed
8 under section 3804(e)(2)(i); or

9 (iii) has served nine months of the suspension
10 imposed under section 3804(e)(2)(ii).

11 (g) Credit against mandatory ignition interlock
12 requirement.--Any period during which an individual holds a
13 valid ignition interlock limited license under subsection (e) or
14 (f) shall count on a day for day basis toward the MAY BE COUNTED <--
15 TOWARD SATISFACTION OF mandatory period of ignition interlock
16 usage imposed under section 3805 arising from the same incident.

17 (h) Certification to the department.--If an individual
18 applies for an ignition interlock limited license under this
19 section, the department shall require that ~~one or more motor~~ <--
20 vehicles owned or to be operated by the individual ONE MOTOR <--
21 VEHICLE OWNED, LEASED OR PRINCIPALLY OPERATED BY THE PERSON,
22 WHICHEVER THE PERSON MOST OPERATES, be equipped with a
23 functioning ignition interlock system, as defined in section
24 3801, as a condition of issuing an ignition interlock limited
25 license with an ignition interlock restriction.

26 (i) Offenses committed during a period for which an ignition
27 interlock limited license has been issued.--If the department
28 receives a report of conviction of an offense for which the
29 penalty is a cancellation, disqualification, recall, suspension
30 or revocation of operating privileges or a report under section

1 3815(c)(4) (relating to mandatory sentencing) for any individual
2 who has been issued an ignition interlock limited license, the
3 department, at its sole discretion, shall either:

4 (1) extend the term of the ignition interlock limited
5 license for up to the original term for which the driver's
6 license was suspended or revoked; or

7 (2) recall the ignition interlock limited license, and
8 the individual shall surrender the limited license to the
9 department or its agents designated under the authority of
10 section 1540.

11 (j) Restrictions.--

12 (1) Pursuant to subsection (a)(2), an individual who has
13 been issued an ignition interlock limited license shall
14 operate only motor vehicles equipped with a functioning
15 ignition interlock system, as defined in section 3801.

16 (2) The operating privileges of an individual who has
17 been issued an ignition interlock limited license remain
18 under suspension or revocation, except when operating a motor
19 vehicle in accordance with the conditions of issuance and
20 restrictions of the ignition interlock limited license.

21 (k) Appeal from denial or recall of ignition interlock
22 limited license.--

23 (1) Any individual who is denied an ignition interlock
24 limited license or whose ignition interlock limited license
25 is extended or recalled under subsection (i) may file with
26 the department a petition for a hearing. The hearing shall be
27 conducted in accordance with 2 Pa.C.S. (relating to
28 administrative law and procedure).

29 (2) The department may charge a reasonable fee based on
30 the cost to the department for conducting the hearing.

1 (3) The appeal shall not operate as an automatic
2 supersedeas. If an administrative hearing officer orders a
3 supersedeas in any appeal, the individual shall earn no
4 credit toward serving the suspension for which the individual
5 was granted an ignition interlock limited license.

6 (4) An appeal from a decision of an administrative
7 hearing officer may be taken in the manner provided in 42
8 Pa.C.S. § 763(a) (relating to direct appeals from government
9 agencies).

10 (5) Appeals under this subsection are exempt from the
11 provisions of section 1550(b) (relating to judicial review)
12 and from the provisions of 42 Pa.C.S. § 933 (relating to
13 appeals from government agencies).

14 Section 4. Section 3805(a), (b) and (c) of Title 75 are
15 amended and the section is amended by adding a subsection to
16 read:

17 § 3805. Ignition interlock.

18 (a) General rule.--If a person violates section 3802
19 (relating to driving under influence of alcohol or controlled
20 substance) [and, within the past ten years, has a prior offense
21 as defined in section 3806(a) (relating to prior offenses)],
22 except if the individual is subject to the penalties under
23 section 3804(a) (relating to penalties), has not had a prior
24 offense, as defined under section 3806(a) (relating to prior
25 offenses), within the past 10 years, or has had their operating
26 privileges suspended pursuant to section [1547(b.1)] 1547
27 (relating to chemical testing to determine amount of alcohol or
28 controlled substance) or 3808(c) (relating to illegally
29 operating a motor vehicle not equipped with ignition interlock)
30 and the person seeks a restoration of operating privileges, the

1 department shall require as a condition of issuing a restricted
2 license pursuant to this section that the following occur:

3 (1) [Each motor vehicle owned ~~or to be operated~~ by the <--
4 person ~~for~~ registered to the person] ONE MOTOR VEHICLE OWNED, <--
5 LEASED OR PRINCIPALLY OPERATED BY THE PERSON, WHICHEVER THE
6 PERSON MOST OPERATES, has been equipped with an ignition
7 interlock system and remains so for the duration of the
8 restricted license period.

9 (2) If there are no motor vehicles owned or to be
10 operated by the person or registered to the person that the
11 person so certify to the department. [A person so certifying
12 shall be deemed to have satisfied the requirement that all
13 motor vehicles owned by the person or registered to the
14 person be equipped with an ignition interlock system as
15 required by this subsection.]

16 (b) Application for a restricted license.--A person subject
17 to this section shall apply to the department for an ignition
18 interlock restricted license under section 1951 (relating to
19 driver's license and learner's permit), which shall be clearly
20 marked to restrict the person to only driving, operating or
21 being in actual physical control of the movement of motor
22 vehicles equipped with an ignition interlock system. Upon
23 issuance of an ignition interlock restricted license to any
24 person, the department shall notify the person that until the
25 person obtains an unrestricted license the person may not [own,
26 register,] drive, operate or be in actual physical control of
27 the movement of any motor vehicle which is not equipped with an
28 ignition interlock system.

29 (c) Issuance of unrestricted license.--One year from the
30 date of issuance of an ignition interlock restricted license

1 under this section, if otherwise eligible, a person may be
2 issued a replacement license under section 1951(d) that does not
3 contain the ignition interlock system restriction. The
4 department shall not issue an unrestricted license until a
5 person has presented all of the following:

6 (1) Proof that the person has completed the ignition
7 interlock restricted license period under this section.

8 (2) Certification by the company that provided the
9 ignition interlock device that the person has complied with
10 subsection (h.2).

11 * * *

12 (h.2) Declaration of compliance.--Restrictions imposed under
13 section 1556 (relating to ignition interlock limited license)
14 shall remain in effect until the department receives a
15 declaration from the person's ignition interlock device vendor,
16 in a form provided or approved by the department, certifying
17 that the following incidents have not occurred in the two
18 consecutive months prior to the date entered on the certificate:

19 (1) An attempt to start the vehicle with a breath
20 alcohol concentration of 0.08% or more, not followed within
21 five minutes by a subsequent attempt with a breath alcohol
22 concentration lower than 0.08%.

23 (2) Failure to take or pass any required retest.

24 (3) Failure of the person to appear at the ignition
25 interlock system vendor when required for maintenance,
26 repair, calibration, monitoring, inspection or replacement of
27 the device such that the ignition interlock system no longer
28 functions as required under subsection (h).

29 * * *

30 SECTION 5. SECTION 3806 OF TITLE 75 IS AMENDED TO READ:

<--

1 § 3806. PRIOR OFFENSES.

2 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B),
3 THE TERM "PRIOR OFFENSE" AS USED IN THIS CHAPTER SHALL MEAN [A]
4 ANY CONVICTION FOR WHICH JUDGMENT OF A SENTENCE HAS BEEN
5 IMPOSED, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT DECREE,
6 ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR OTHER
7 FORM OF PRELIMINARY DISPOSITION BEFORE THE SENTENCING ON THE
8 PRESENT VIOLATION FOR ANY OF THE FOLLOWING:

9 (1) AN OFFENSE UNDER SECTION 3802 (RELATING TO DRIVING
10 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);

11 (2) AN OFFENSE UNDER FORMER SECTION 3731;

12 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
13 PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR

14 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
15 PARAGRAPH (1), (2) OR (3).

16 (B) [REPEAT OFFENSES WITHIN TEN YEARS] TIMING.--[THE
17 CALCULATION OF PRIOR OFFENSES FOR PURPOSES OF SECTIONS 1553(D.2)
18 (RELATING TO OCCUPATIONAL LIMITED LICENSE), 3803 (RELATING TO
19 GRADING) AND 3804 (RELATING TO PENALTIES) SHALL INCLUDE ANY
20 CONVICTION, WHETHER OR NOT JUDGMENT OF SENTENCE HAS BEEN IMPOSED
21 FOR THE VIOLATION, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT
22 DECREE, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR
23 OTHER FORM OF PRELIMINARY DISPOSITION WITHIN THE TEN YEARS
24 BEFORE THE SENTENCING ON THE PRESENT VIOLATION FOR ANY OF THE
25 FOLLOWING:

26 (1) AN OFFENSE UNDER SECTION 3802;

27 (2) AN OFFENSE UNDER FORMER SECTION 3731;

28 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
29 PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR

30 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN

1 PARAGRAPH (1), (2) OR (3).]

2 (1) FOR PURPOSES OF SECTIONS 1553(D.2) (RELATING TO
3 OCCUPATIONAL LIMITED LICENSE), 3803 (RELATING TO GRADING) AND
4 3804 (RELATING TO PENALTIES), THE PRIOR OFFENSE MUST HAVE
5 OCCURRED:

6 (I) WITHIN 10 YEARS PRIOR TO THE DATE OF THE OFFENSE
7 FOR WHICH THE DEFENDANT IS BEING SENTENCED; OR

8 (II) ON OR AFTER THE DATE OF THE OFFENSE FOR WHICH
9 THE DEFENDANT IS BEING SENTENCED.

10 (2) THE COURT SHALL CALCULATE THE NUMBER OF PRIOR
11 OFFENSES, IF ANY, AT THE TIME OF SENTENCING.

12 (3) IF THE DEFENDANT IS SENTENCED FOR TWO OR MORE
13 OFFENSES IN THE SAME DAY, THE OFFENSES SHALL BE CONSIDERED
14 PRIOR OFFENSES WITHIN THE MEANING OF THIS SUBSECTION.

15 Section ~~5~~ 6. Section ~~3808(e)(1)~~ 3808(A) AND (C)(1) of Title <--
16 ~~75 is~~ ARE amended to read: <--

17 § 3808. Illegally operating a motor vehicle not equipped with
18 ignition interlock.

19 (A) OFFENSE DEFINED.-- <--

20 (1) AN INDIVIDUAL REQUIRED TO ONLY DRIVE, OPERATE OR BE
21 IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A MOTOR VEHICLE
22 EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM UNDER [SECTION
23 1553(D.2) (RELATING TO OCCUPATIONAL LIMITED LICENSE)] SECTION
24 1556 (RELATING TO IGNITION INTERLOCK LIMITED LICENSE) OR 3805
25 (RELATING TO IGNITION INTERLOCK) WHO DRIVES, OPERATES OR IS
26 IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A MOTOR VEHICLE
27 WITHIN THIS COMMONWEALTH WITHOUT SUCH A SYSTEM COMMITS A
28 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
29 FINE OF NOT LESS THAN \$300 AND NOT MORE THAN \$1,000 AND TO
30 IMPRISONMENT FOR NOT MORE THAN 90 DAYS.

1 (2) AN INDIVIDUAL REQUIRED TO ONLY DRIVE, OPERATE OR BE
2 IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A MOTOR VEHICLE
3 EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM UNDER [SECTION
4 1553(D.2)] SECTION 1556 OR 3805 WHO DRIVES, OPERATES OR IS IN
5 ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A MOTOR VEHICLE
6 WITHIN THIS COMMONWEALTH WITHOUT SUCH A SYSTEM AND WHO HAS AN
7 AMOUNT OF ALCOHOL BY WEIGHT IN HIS BLOOD THAT IS EQUAL TO OR
8 GREATER THAN 0.025% AT THE TIME OF TESTING OR WHO HAS IN HIS
9 BLOOD ANY AMOUNT OF A SCHEDULE I OR NONPRESCRIBED SCHEDULE II
10 OR III CONTROLLED SUBSTANCE, AS DEFINED IN THE ACT OF APRIL
11 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,
12 DRUG, DEVICE AND COSMETIC ACT, OR ITS METABOLITE COMMITS A
13 MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON CONVICTION,
14 BE SENTENCED TO PAY A FINE OF \$1,000 AND TO UNDERGO
15 IMPRISONMENT FOR A PERIOD OF NOT LESS THAN 90 DAYS.

16 * * *

17 (c) Suspension of operating privilege.--Notwithstanding
18 section 3805(c) and (i):

19 (1) If a person who is required to only drive, operate
20 or be in actual physical control of the movement of a motor
21 vehicle equipped with an ignition interlock system violates
22 this section, upon receipt of a certified record of the
23 conviction, the department shall not issue a replacement
24 license to the person under section 1951(d) (relating to
25 driver's license and learner's permit) that does not contain
26 an ignition interlock restriction for a period of one year
27 from the date of conviction until the person has complied
28 with the requirements of section 3805 (relating to ignition
29 interlock).

30 * * *

1 ~~Section 6. This act shall take effect in 15 months.~~ <--

2 SECTION 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <--

3 (1) THE AMENDMENT OF 75 PA.C.S. § 1547(A), (C)
4 INTRODUCTORY PARAGRAPH, (2) AND (3), (G.1), (H), (I) AND (J)
5 SHALL TAKE EFFECT IMMEDIATELY.

6 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

7 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 15
8 MONTHS.