
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2528 Session of
2018

INTRODUCED BY GREINER, CORBIN, MACKENZIE, WATSON, D. COSTA,
JAMES, MILLARD, FEE, GILLESPIE, PHILLIPS-HILL, MOUL,
SCHLOSSBERG, GROVE, HICKERNELL, GILLEN, ZIMMERMAN, CUTLER,
B. MILLER, DeLUCA AND KEEFER, JUNE 25, 2018

REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 25, 2018

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in licensing of drivers, further providing for
3 notice of acceptance of Accelerated Rehabilitative
4 Disposition; and, in driving after imbibing alcohol or
5 utilizing drugs, further providing for grading, for penalties
6 and for prior offenses.

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

9 Section 1. Section 1534(b), (c) and (d) of Title 75 of the
10 Pennsylvania Consolidated Statutes are amended to read:

11 § 1534. Notice of acceptance of Accelerated Rehabilitative
12 Disposition.

13 * * *

14 (b) Exception.--If a person is arrested for any offense
15 enumerated in section 3802 (relating to driving under influence
16 of alcohol or controlled substance) and is offered and accepts
17 Accelerated Rehabilitative Disposition under general rules, the
18 court shall promptly notify the department. The department shall
19 maintain a record of the acceptance of Accelerated

1 Rehabilitative Disposition [for a period of ten years from the
2 date of notification]. This record shall not be expunged by
3 order of court [or prior to the expiration of the ten-year
4 period].

5 [(c) Expungement.--Immediately following the expiration of
6 the ten-year period, the department shall expunge the record of
7 the acceptance of Accelerated Rehabilitative Disposition. The
8 department shall not require an order of court to expunge the
9 record.

10 (d) Exceptions to expungement.--The department shall not be
11 required to expunge the record of acceptance of Accelerated
12 Rehabilitative Disposition if:

- 13 (1) during the ten-year period, the department revokes
14 the operating privileges of a person pursuant to section 1542
15 (relating to revocation of habitual offender's license); or
16 (2) the person was a commercial driver at the time of
17 the violation causing the disposition.]

18 Section 2. Section 3803 of Title 75, declared
19 unconstitutional in part, 155 A.3d 635 (Pa. Super. Ct. 2017), is
20 reenacted and amended to read:

21 § 3803. Grading.

22 (a) Basic offenses.--Except as provided in subsection (b):

- 23 (1) An individual who violates section 3802(a) (relating
24 to driving under influence of alcohol or controlled
25 substance) and has no more than one prior offense within the
26 past 10 years as specified in section 3806(b) (relating to
27 prior offenses) commits a misdemeanor for which the
28 individual may be sentenced to a term of imprisonment of not
29 more than six months and to pay a fine under section 3804
30 (relating to penalties).

1 (2) An individual who violates section 3802(a) and has
2 no more than [one prior offense] two prior offenses as
3 specified in section 3806(a) commits a misdemeanor of the
4 second degree.

5 (3) An individual who violates section 3802(a) and has
6 no more than two prior offenses within the past 10 years as
7 specified in section 3806(b) commits a felony of the third
8 degree.

9 (4) An individual who violates section 3802(a) and has
10 three or more prior offenses as specified in section 3806(a)
11 commits a felony of the third degree.

12 (b) Other offenses.--

13 (1) An individual who violates section 3802(a) (1) where
14 there was an accident resulting in bodily injury, serious
15 bodily injury or death of any person or in damage to a
16 vehicle or other property, or who violates section 3802(b),
17 (e) or (f) and who has no more than one prior offense within
18 the past 10 years as specified in section 3806(b) commits a
19 misdemeanor for which the individual may be sentenced to a
20 term of imprisonment of not more than six months and to pay a
21 fine under section 3804.

22 (2) An individual who violates section 3802(a) where
23 another individual under 18 years of age was an occupant of
24 the vehicle when the violation occurred, section 3802(a) (1)
25 or (f) (2), (3) or (4) where the individual refused testing of
26 blood or breath, or who violates section 3802(c) or (d) and
27 who has no prior offenses commits a misdemeanor for which the
28 individual may be sentenced to a term of imprisonment of not
29 more than six months and to pay a fine under section 3804.

30 (3) An individual who violates section 3802(a) (1) where

1 there was an accident resulting in bodily injury, serious
2 bodily injury or death of any person or in damage to a
3 vehicle or other property, or who violates section 3802(b),
4 (e) or (f) and who has [more than one prior offense commits a
5 misdemeanor of the first degree.] no more than two prior
6 offenses as specified in section 3806(a) commits a
7 misdemeanor of the first degree.

8 (3.1) An individual who violates section 3802(a) (1)
9 where there was an accident resulting in bodily injury,
10 serious bodily injury or death of an individual or in damage
11 to a vehicle or other property, or who violates section
12 3802(b), (e) or (f) and who has no more than two prior
13 offenses within the past 10 years as specified in section
14 3806(b) commits a felony of the third degree.

15 (3.2) An individual who violates section 3802(a) (1)
16 where there was an accident resulting in bodily injury,
17 serious bodily harm or death of an individual or in damage to
18 a vehicle or other property, or who violates section 3802(b),
19 (e) or (f) and who has more than two prior offenses as
20 specified in section 3806(a) commits a felony of the third
21 degree.

22 (4) An individual who violates section 3802(a) where
23 another individual under 18 years of age was an occupant of
24 the vehicle when the violation occurred, section 3802(a) (1)
25 or (f) (2), (3) or (4) where the individual refused testing of
26 blood or breath, or who violates section 3802(c) or (d) and
27 who has [one or more prior offenses] no more than one prior
28 offense within the past 10 years as specified in section
29 3806(b) commits a misdemeanor of the first degree.

30 (4.1) An individual who violates section 3802(a) where

1 another individual under 18 years of age was an occupant of
2 the vehicle when the violation occurred, section 3802(a) (1)
3 or (f) (2), (3) or (4) where the individual refused testing of
4 blood or breath, or who violates section 3802(c) or (d) and
5 who has no more than two prior offenses as specified in
6 section 3806(a) commits a misdemeanor of the first degree.

7 (4.2) An individual who violates section 3802(a) where
8 another individual under 18 years of age was an occupant of
9 the vehicle when the violation occurred, section 3802(a) (1)
10 or (f) (2), (3) or (4) where the individual refused testing of
11 blood or breath, or who violates section 3802(c) or (d) and
12 who has no more than two prior offenses within the past 10
13 years as specified in section 3806(b) commits a felony of the
14 third degree.

15 (4.3) An individual who violates section 3802(a) where
16 another individual under 18 years of age was an occupant of
17 the vehicle when the violation occurred, section 3802(a) (1)
18 or (f) (2), (3) or (4) where the individual refused testing of
19 blood or breath, or who violates section 3802(c) or (d) and
20 who has more than two prior offenses as specified in section
21 3806(a) commits a felony of the third degree.

22 (5) An individual who violates section 3802 where a
23 minor under 18 years of age was an occupant in the vehicle
24 when the violation occurred commits a misdemeanor of the
25 first degree.

26 Section 3. Sections 3804(a), (b), (c), (c.1) and (e) and
27 3806(b) of Title 75 are amended to read:

28 § 3804. Penalties.

29 (a) General impairment.--Except as set forth in subsection
30 (b) or (c), an individual who violates section 3802(a) (relating

1 to driving under influence of alcohol or controlled substance)
2 shall be sentenced as follows:

3 (1) For a first offense, to:

4 (i) undergo a mandatory minimum term of six months'
5 probation;

6 (ii) pay a fine of \$300;

7 (iii) attend an alcohol highway safety school
8 approved by the department; and

9 (iv) comply with all drug and alcohol treatment
10 requirements imposed under sections 3814 (relating to
11 drug and alcohol assessments) and 3815 (relating to
12 mandatory sentencing).

13 (2) For a second offense, to:

14 (i) undergo imprisonment for not less than five
15 days;

16 (ii) pay a fine of not less than \$300 nor more than
17 \$2,500;

18 (iii) attend an alcohol highway safety school
19 approved by the department; and

20 (iv) comply with all drug and alcohol treatment
21 requirements imposed under sections 3814 and 3815.

22 (3) For a third [or subsequent] offense graded as a
23 misdemeanor under section 3803 (relating to grading), to:

24 (i) undergo imprisonment of not less than ten days;

25 (ii) pay a fine of not less than \$500 nor more than
26 \$5,000; and

27 (iii) comply with all drug and alcohol treatment
28 requirements imposed under sections 3814 and 3815.

29 (4) For a third offense graded as a felony of the third
30 degree under section 3803, to:

1 (i) undergo imprisonment for not less than 90 days;
2 (ii) pay a fine of not less than \$1,500 nor more
3 than \$15,000; and

4 (iii) comply with all drug and alcohol treatment
5 requirements imposed under sections 3814 and 3815.

6 (5) For a fourth or subsequent offense graded as a
7 felony of the third degree under section 3803, to:

8 (i) undergo imprisonment for not less than six
9 months;

10 (ii) pay a fine of not less than \$2,500 nor more
11 than \$15,000; and

12 (iii) comply with all drug and alcohol treatment
13 requirements imposed under sections 3814 and 3815.

14 (b) High rate of blood alcohol; minors; commercial vehicles
15 and school buses and school vehicles; accidents.--Except as set
16 forth in subsection (c), an individual who violates section
17 3802(a) (1) where there was an accident resulting in bodily
18 injury, serious bodily injury or death of any person or damage
19 to a vehicle or other property or who violates section 3802(b),
20 (e) or (f) shall be sentenced as follows:

21 (1) For a first offense, to:

22 (i) undergo imprisonment of not less than 48
23 consecutive hours;

24 (ii) pay a fine of not less than \$500 nor more than
25 \$5,000;

26 (iii) attend an alcohol highway safety school
27 approved by the department; and

28 (iv) comply with all drug and alcohol treatment
29 requirements imposed under sections 3814 and 3815.

30 (2) For a second offense, to:

- 1 (i) undergo imprisonment of not less than 30 days;
2 (ii) pay a fine of not less than \$750 nor more than
3 \$5,000;
4 (iii) attend an alcohol highway safety school
5 approved by the department; and
6 (iv) comply with all drug and alcohol treatment
7 requirements imposed under sections 3814 and 3815.

8 (3) For a third offense graded as a misdemeanor under
9 section 3803, to:

- 10 (i) undergo imprisonment of not less than 90 days;
11 (ii) pay a fine of not less than \$1,500 nor more
12 than \$10,000; and
13 (iii) comply with all drug and alcohol treatment
14 requirements imposed under sections 3814 and 3815.

15 (3.1) For a third offense graded as a felony of the
16 third degree under section 3803, to:

- 17 (i) undergo imprisonment of not less than six
18 months;
19 (ii) pay a fine of not less than \$2,500 nor more
20 than \$15,000; and
21 (iii) comply with all drug and alcohol treatment
22 requirements imposed under sections 3814 and 3815.

23 (4) For a fourth or subsequent offense graded as an
24 offense of the third degree under section 3803, to:

- 25 (i) undergo imprisonment of not less than one year;
26 (ii) pay a fine of not less than [\$1,500] \$5,000 nor
27 more than [\$10,000] \$15,000; and
28 (iii) comply with all drug and alcohol treatment
29 requirements imposed under sections 3814 and 3815.

30 (c) Incapacity; highest blood alcohol; controlled

1 substances.--An individual who violates section 3802 where
2 another individual under 18 years of age was an occupant of the
3 vehicle when the violation occurred, section 3802(a) (1) or (f)
4 (2), (3) or (4) and refused testing of breath under section 1547
5 (relating to chemical testing to determine amount of alcohol or
6 controlled substance) or testing of blood pursuant to a valid
7 search warrant or an individual who violates section 3802(c) or
8 (d) shall be sentenced as follows:

9 (1) For a first offense, to:

10 (i) undergo imprisonment of not less than 72
11 consecutive hours;

12 (ii) pay a fine of not less than \$1,000 nor more
13 than \$5,000;

14 (iii) attend an alcohol highway safety school
15 approved by the department; and

16 (iv) comply with all drug and alcohol treatment
17 requirements imposed under sections 3814 and 3815.

18 (2) For a second offense, to:

19 (i) undergo imprisonment of not less than 90 days;

20 (ii) pay a fine of not less than \$1,500;

21 (iii) attend an alcohol highway safety school
22 approved by the department; and

23 (iv) comply with all drug and alcohol treatment
24 requirements imposed under sections 3814 and 3815.

25 (3) For a third [or subsequent] offense graded as a
26 misdemeanor under section 3803, to:

27 (i) undergo imprisonment of not less than one year;

28 (ii) pay a fine of not less than \$2,500; and

29 (iii) comply with all drug and alcohol treatment
30 requirements imposed under sections 3814 and 3815.

1 * * *

2 (4) For a third offense graded as a felony under section
3 3803, to:

4 (i) undergo imprisonment for not less than 18
5 months;

6 (ii) pay a fine of not less than \$5,000 nor more
7 than \$15,000; and

8 (iii) comply with all drug and alcohol treatment
9 requirements imposed under sections 3814 and 3815.

10 (5) For a fourth or subsequent offense graded as a
11 felony under section 3803, to:

12 (i) undergo imprisonment for not less than two
13 years;

14 (ii) pay a fine of not less than \$7,500 nor more
15 than \$15,000; and

16 (iii) comply with all drug and alcohol treatment
17 requirements imposed under sections 3814 and 3815.

18 [(c.1) Violation involving minor occupant.--An individual
19 who violates section 3803(b) (5) (relating to grading), in
20 addition to any penalty imposed in this chapter, shall be
21 sentenced as follows:

22 (1) For a first offense, to:

23 (i) pay a fine of not less than \$1,000; and

24 (ii) complete 100 hours of community service.

25 (2) For a second offense, to:

26 (i) pay a fine of not less than \$2,500; and

27 (ii) undergo imprisonment of not less than one month
28 nor more than six months.

29 (3) For a third or subsequent offense, undergo
30 imprisonment of not less than six months nor more than two

1 years.]

2 * * *

3 (e) Suspension of operating privileges upon conviction.--

4 (1) The department shall suspend the operating privilege
5 of an individual under paragraph (2) upon receiving a
6 certified record of the individual's conviction of or an
7 adjudication of delinquency for:

8 (i) an offense under section 3802; or

9 (ii) an offense which is substantially similar to an
10 offense enumerated in section 3802 reported to the
11 department under Article III of the compact in section
12 1581 (relating to Driver's License Compact).

13 (2) Suspension under paragraph (1) shall be in
14 accordance with the following:

15 (i) Except as provided for in subparagraph (iii), 12
16 months for an ungraded misdemeanor or misdemeanor of the
17 second degree under this chapter.

18 (ii) 18 months for a misdemeanor of the first degree
19 under this chapter.

20 (ii.1) 24 months for a third offense graded as a
21 felony under this chapter.

22 (ii.2) 36 months for a fourth or subsequent offense
23 under this chapter.

24 (iii) There shall be no suspension for an ungraded
25 misdemeanor under section 3802(a) where the person is
26 subject to the penalties provided in subsection (a) and
27 the person has no prior offense.

28 (iv) For suspensions imposed under paragraph (1)
29 (ii), notwithstanding any provision of law or enforcement
30 agreement to the contrary, all of the following apply:

1 (A) Suspensions shall be in accordance with
2 Subchapter D of Chapter 15 (relating to the Driver's
3 License Compact).

4 (B) In calculating the term of a suspension for
5 an offense that is substantially similar to an
6 offense enumerated in section 3802, the department
7 shall presume that if the conduct reported had
8 occurred in this Commonwealth then the person would
9 have been convicted under section 3802(a)(2).

10 (v) Notwithstanding any other provision of law or
11 enforcement agreement to the contrary, the department
12 shall suspend the operating privilege of a driver for six
13 months upon receiving a certified record of a consent
14 decree granted under 42 Pa.C.S. Ch. 63 (relating to
15 juvenile matters) based on section 3802.

16 * * *

17 § 3806. Prior offenses.

18 * * *

19 (b) Timing.--

20 (1) For purposes of sections 1553(d.2) (relating to
21 occupational limited license), 1556 (relating to ignition
22 interlock limited license), 3803 (relating to grading)[, 3804
23 (relating to penalties)] and 3805 (relating to ignition
24 interlock), the prior offense must have occurred:

25 (i) within 10 years prior to the date of the offense
26 for which the defendant is being sentenced; or

27 (ii) on or after the date of the offense for which
28 the defendant is being sentenced.

29 (2) The court shall calculate the number of prior
30 offenses, if any, at the time of sentencing.

1 (3) If the defendant is sentenced for two or more
2 offenses in the same day, the offenses shall be considered
3 prior offenses within the meaning of this subsection.
4 Section 4. This act shall take effect in 60 days.