

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 773 Session of
2019

INTRODUCED BY KILLION, ARGALL, BLAKE, BREWSTER, COSTA, FOLMER,
KEARNEY, MARTIN, MASTRIANO, MENSCH, PHILLIPS-HILL,
SANTARSIERO, TOMLINSON, YAW, COLLETT, BARTOLOTTA AND
DINNIMAN, AUGUST 28, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 20, 2020

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 ~~ignition interlock limited license; in driving after imbibing~~
5 ~~alcohol or utilizing drugs, further providing for grading,~~
6 ~~for penalties, for ignition interlock and for mandatory~~
7 ~~sentencing and providing for 24/7 sobriety monitoring~~
8 ~~program; and providing for a study of driving under the~~
9 ~~influence courts.~~

10 ~~This act may be referred to as Deana's Law.~~

11 AMENDING TITLE 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED <--
12 STATUTES, IN GENERAL PROVISIONS, FURTHER PROVIDING FOR
13 DEFINITIONS; IN LICENSING OF DRIVERS, FURTHER PROVIDING FOR
14 SUSPENSION OF OPERATING PRIVILEGE, FOR THE OFFENSE OF DRIVING
15 WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AND FOR
16 IGNITION INTERLOCK LIMITED LICENSE AND PROVIDING FOR RELIEF
17 FROM ADMINISTRATIVE SUSPENSION PROGRAM; IN COMMERCIAL
18 DRIVERS, FURTHER PROVIDING FOR DEFINITIONS; AND, IN DRIVING
19 AFTER IMBIBING ALCOHOL OR UTILIZING DRUGS, FURTHER PROVIDING
20 FOR DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
21 SUBSTANCE, FOR GRADING, FOR PENALTIES, FOR IGNITION
22 INTERLOCK, FOR PRIOR OFFENSES, FOR ACCELERATED REHABILITATIVE
23 DISPOSITION, FOR AUTHORIZED USE NOT A DEFENSE, FOR DRUG AND
24 ALCOHOL ASSESSMENTS AND FOR MANDATORY SENTENCING AND
25 PROVIDING FOR 24/7 SOBRIETY SUBSTANCE MONITORING PROGRAM; AND <--
26 PROVIDING FOR A STUDY OF DRIVING UNDER THE INFLUENCE COURTS.

27 THIS ACT MAY BE REFERRED TO AS DEANA'S LAW.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 ~~Section 1. Section 102 of Title 75 of the Pennsylvania~~ <--
4 ~~Consolidated Statutes is amended by adding a definition to read:~~
5 ~~§ 102. Definitions.~~

6 ~~Subject to additional definitions contained in subsequent~~
7 ~~provisions of this title which are applicable to specific~~
8 ~~provisions of this title, the following words and phrases when~~
9 ~~used in this title shall have, unless the context clearly~~
10 ~~indicates otherwise, the meanings given to them in this section:~~

11 * * *

12 ~~"Continuous alcohol monitoring device" or "CAM device." A~~
13 ~~monitoring device or instrument that:~~

14 ~~(1) is attached to the individual;~~

15 ~~(2) is designed to automatically test the presence of~~
16 ~~alcohol in an individual by contact with the skin of the~~
17 ~~individual at least once per one half hour regardless of the~~
18 ~~location on the individual;~~

19 ~~(3) detects the presence of alcohol; and~~

20 ~~(4) detects an attempt to tamper with, obstruct or~~
21 ~~remove the device or instrument.~~

22 * * *

23 ~~Section 2. Section 1556(b)(2) of Title 75 is amended to~~
24 ~~read:~~

25 ~~§ 1556. Ignition interlock limited license.~~

26 * * *

27 ~~(b) Petition.~~

28 * * *

29 ~~(2) The petition shall also include proof of financial~~
30 ~~responsibility covering each vehicle the applicant requests~~

1 ~~to be permitted to operate. The department shall promulgate~~
2 ~~regulations to require additional information as well as~~
3 ~~additional evidence to verify the information contained in~~
4 ~~the petition. Upon approval of the petition, the ignition~~
5 ~~interlock device must be installed in any motor vehicle to be~~
6 ~~operated by the individual, and proof of installation must be~~
7 ~~provided by the ignition interlock device vendor.~~

8 * * *

9 ~~Section 3. Section 3803(b) (3) and (4.1) of Title 75 are~~
10 ~~amended and the subsection is amended by adding a paragraph to~~
11 ~~read:~~

12 ~~§ 3803. Grading.~~

13 * * *

14 ~~(b) Other offenses.~~

15 * * *

16 ~~(3) An individual who violates section 3802(a) (1) where~~
17 ~~there was an accident resulting in bodily injury, serious~~
18 ~~bodily injury or death of any person or in damage to a~~
19 ~~vehicle or other property, or who violates section [3802(b),~~
20 ~~(e)] 3802(e) or (f) and who has two prior offenses commits a~~
21 ~~misdemeanor of the first degree.~~

22 ~~(3.1) An individual who violates section 3802(b) and who~~
23 ~~has two prior offenses commits a felony of the third degree.~~

24 * * *

25 ~~(4.1) An individual who violates section 3802(a) (1)~~
26 ~~where the individual refused testing of breath or chemical~~
27 ~~testing pursuant to a valid search warrant, court order or~~
28 ~~any other basis permissible by the Constitution of the United~~
29 ~~States and the Constitution of Pennsylvania, or who violates~~
30 ~~section 3802(c) or (d) [and who] commits:~~

1 ~~(i) A felony of the third degree if the individual~~
2 ~~has two [or more] prior offenses [commits a felony of the~~
3 ~~third degree].~~

4 ~~(ii) A felony of the second degree if the individual~~
5 ~~has three prior offenses.~~

6 ~~(iii) A felony of the first degree if the individual~~
7 ~~has four or more prior offenses.~~

8 * * *

9 ~~Section 4. Section 3804 of Title 75 is amended by adding a~~
10 ~~subsection to read:~~

11 ~~§ 3804. Penalties.~~

12 * * *

13 ~~(c.2) Consecutive sentence. A sentence imposed upon a~~
14 ~~person under this section for a third or subsequent offense~~
15 ~~shall be served consecutively to any other sentence the person~~
16 ~~is serving and to any other sentence being then imposed by the~~
17 ~~court.~~

18 * * *

19 ~~Section 5. Section 3805(e) and (h.2) of Title 75 are amended~~
20 ~~to read:~~

21 ~~§ 3805. Ignition interlock.~~

22 * * *

23 ~~(e) Issuance of unrestricted license. One year from the~~
24 ~~date of issuance of an ignition interlock restricted license~~
25 ~~under this section, or two years from the date of issuance of an~~
26 ~~ignition interlock restricted license under this section in the~~
27 ~~case of a person convicted of a third or subsequent offense~~
28 ~~under section 3802, if otherwise eligible, a person may be~~
29 ~~issued a replacement license under section 1951(d) that does not~~
30 ~~contain the ignition interlock system restriction. The~~

1 ~~department shall not issue an unrestricted license until a~~
2 ~~person has presented all of the following:~~

3 ~~(1) Proof that the person has completed the ignition-~~
4 ~~interlock restricted license period under this section.~~

5 ~~(2) Certification by the vendor that provided the~~
6 ~~ignition interlock device that the person has complied with~~
7 ~~subsection (h.2).~~

8 ~~* * *~~

9 ~~(h.2) Declaration of compliance. Restrictions imposed under~~
10 ~~section 1556 (relating to ignition interlock limited license)~~
11 ~~shall remain in effect until the department receives a~~
12 ~~declaration from the person's ignition interlock device vendor,~~
13 ~~in a form provided or approved by the department, certifying~~
14 ~~that the following incidents have not occurred in the two~~
15 ~~consecutive months prior to the date entered on the certificate,~~
16 ~~and for the purposes of a suspension imposed under section~~
17 ~~3807(d)(2), the person's ignition interlock device vendor shall~~
18 ~~certify the following incidents have not occurred in the prior~~
19 ~~30 days entered on the certificate:~~

20 ~~(1) An attempt to start the vehicle with a breath-~~
21 ~~alcohol concentration of 0.08% or more, not followed within~~
22 ~~10 minutes by a subsequent attempt with a breath alcohol~~
23 ~~concentration lower than 0.08%.~~

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

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

30 ~~If a violation under paragraph (1), (2) or (3) occurs, the~~

1 ~~vendor shall notify the department as to the violation on a form~~
2 ~~designated by the department, and the department shall notify~~
3 ~~the person of the violation and that ignition interlock device~~
4 ~~usage shall continue until no violations have occurred within a~~
5 ~~60 day period.~~

6 * * *

7 Section 6. ~~Section 3815(b)(2) of Title 75 is amended and the~~
8 ~~section is amended by adding a subsection to read:~~

9 ~~§ 3815. Mandatory sentencing.~~

10 * * *

11 ~~(b) Parole.—~~

12 * * *

13 ~~(2) The following shall be conditions of parole:~~

14 ~~(i) If the offender is not determined under the~~
15 ~~procedures set forth in section 3814 to be addicted to~~
16 ~~alcohol or another substance, the offender must refrain~~
17 ~~from:~~

18 ~~(A) the use of illegal controlled substances;~~

19 and

20 ~~(B) the abuse of prescription drugs, over the~~
21 ~~counter drugs or any other substances.~~

22 ~~(ii) If the offender is determined under the~~
23 ~~procedures set forth in section 3814 to be addicted to~~
24 ~~alcohol or another substance, the offender must do all of~~
25 ~~the following:~~

26 ~~(A) Refrain from:~~

27 ~~(I) the use of alcohol or illegal controlled~~
28 ~~substances; and~~

29 ~~(II) the abuse of prescription drugs, over~~
30 ~~the counter drugs or any other substances.~~

1 ~~(B) Participate in and cooperate with drug and~~
2 ~~alcohol addiction treatment under subsection (c).~~

3 ~~(iii) At the court's discretion and consistent with~~
4 ~~section 3818 (relating to 24/7 sobriety monitoring~~
5 ~~program), an individual serving a sentence for a~~
6 ~~violation of section 3802 who has two or more prior~~
7 ~~offenses may be fitted with a CAM device for one year or~~
8 ~~for the duration of the period of parole, whichever is~~
9 ~~less.~~

10 ~~(b.1) Probation. At the court's discretion, as a condition~~
11 ~~of a probation order and consistent with section 3818, an~~
12 ~~individual serving a sentence for a violation of section 3802~~
13 ~~who has two or more prior offenses may be fitted with a CAM~~
14 ~~device for one year or for the duration of the period of~~
15 ~~probation, whichever is less.~~

16 * * *

17 Section 7. Title 75 is amended by adding a section to read:
18 ~~§ 3818. 24/7 sobriety monitoring program.~~

19 ~~(a) Establishment. A 24/7 sobriety monitoring program is~~
20 ~~established under the Unified Judicial System of Pennsylvania.~~

21 ~~(b) Requirements. The use of or participation in a 24/7~~
22 ~~sobriety monitoring program is required in one or more of the~~
23 ~~following for no less than 90 days as a condition of bail while~~
24 ~~adjudication of a violation of section 3802 (relating to driving~~
25 ~~under influence of alcohol or controlled substance) is pending~~
26 ~~for an individual who has two or more prior offenses:~~

27 ~~(1) A CAM device or any other similar alcohol monitoring~~
28 ~~technology or device as determined by the court.~~

29 ~~(2) Random drug testing or any other controlled~~
30 ~~substance monitoring technology or device as determined by~~

1 ~~the court.~~

2 ~~(c) Determination and costs to be paid. The individual~~
3 ~~shall pay for all costs associated with the 24/7 sobriety~~
4 ~~monitoring program, including administrative and operating costs~~
5 ~~or costs associated with any required devices or technologies.~~
6 ~~The court may authorize the county to finance costs associated~~
7 ~~with the 24/7 sobriety monitoring program if the court, at any~~
8 ~~time, determines the individual lacks the financial ability to~~
9 ~~pay all or part of costs associated with a 24/7 sobriety~~
10 ~~monitoring program.~~

11 ~~(d) Financial inquiry. A court determination under~~
12 ~~subsection (c) shall be based on an appropriate inquiry into the~~
13 ~~financial circumstances of the individual required to~~
14 ~~participate in a 24/7 sobriety monitoring program and an~~
15 ~~affidavit or certificate, signed by that individual,~~
16 ~~demonstrating financial inability to pay all or part of the~~
17 ~~costs associated with the 24/7 sobriety monitoring program.~~

18 ~~(e) Prohibitions. An individual required to participate in~~
19 ~~a 24/7 sobriety monitoring program is prohibited from all of the~~
20 ~~following for the duration of the 24/7 sobriety monitoring~~
21 ~~program:~~

22 ~~(1) Imbibing alcohol, using controlled substances or~~
23 ~~both as determined by the court.~~

24 ~~(2) Tampering with devices or technologies associated~~
25 ~~with the 24/7 sobriety monitoring program.~~

26 ~~(3) Failing to comply with any other requirements~~
27 ~~ordered by the court as part of the 24/7 sobriety monitoring~~
28 ~~program.~~

29 ~~Section 8. The Department of Transportation, in consultation~~
30 ~~with the Pennsylvania State Police and the Administrative Office~~

1 ~~of Pennsylvania Courts, shall evaluate the effectiveness of~~
2 ~~driving under the influence courts in this Commonwealth and~~
3 ~~submit a report with findings and recommendations to the~~
4 ~~Transportation Committee of the Senate and the Transportation~~
5 ~~Committee of the House of Representatives within six months of~~
6 ~~the effective date of this section.~~

7 ~~Section 9. This act shall take effect in 120 days.~~

8 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--
9 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:
10 § 102. DEFINITIONS.

11 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
12 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
13 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
14 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
15 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

16 * * *

17 "CONTINUOUS ALCOHOL MONITORING DEVICE." A MONITORING DEVICE
18 OR INSTRUMENT THAT:

19 (1) IS ATTACHED TO AN INDIVIDUAL;

20 (2) IS DESIGNED TO AUTOMATICALLY AND FREQUENTLY TEST THE
21 PRESENCE OF ALCOHOL IN THE INDIVIDUAL REGARDLESS OF THE
22 METHOD BY WHICH THE DEVICE OR INSTRUMENT IS ATTACHED TO THE
23 INDIVIDUAL;

24 (3) DETECTS THE PRESENCE OF ALCOHOL; AND

25 (4) DETECTS AN ATTEMPT TO TAMPER WITH, OBSTRUCT OR
26 REMOVE THE DEVICE OR INSTRUMENT.

27 * * *

28 "REMOTE BREATH TESTING DEVICE." AN UNSUPERVISED MOBILE
29 BREATH TESTING DEVICE THAT:

30 (1) IS NOT AFFIXED TO A MOTOR VEHICLE;

1 (2) HAS THE ABILITY TO CONFIRM THE IDENTITY AND LOCATION
2 OF AN INDIVIDUAL; AND

3 (3) DETECTS THE PRESENCE OF ALCOHOL.

4 * * *

5 "SUBSTANCE MONITORING PROGRAM." THE COURT-ORDERED USE OF OR
6 PARTICIPATION IN ANY ONE OR MORE BOTH OF THE FOLLOWING AS A <--
7 CONDITION OF BAIL, PROBATION OR PAROLE CONSISTENT WITH SECTION
8 3818 (RELATING TO SUBSTANCE MONITORING PROGRAM) :

9 ~~(1) A CONTINUOUS ALCOHOL MONITORING DEVICE.~~ <--

10 ~~(2) A REMOTE BREATH TESTING DEVICE.~~

11 ~~(3) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED~~
12 ~~SUBSTANCE MONITORING TECHNOLOGY OR DEVICE AS DETERMINED BY~~
13 ~~THE COURT.~~

14 (1) A CONTINUOUS ALCOHOL MONITORING DEVICE, REMOTE <--
15 BREATH TESTING DEVICE OR ANY OTHER ALCOHOL MONITORING
16 TECHNOLOGY OR DEVICE, AS DETERMINED BY THE COURT.

17 (2) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
18 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE, AS DETERMINED BY
19 THE COURT.

20 * * *

21 SECTION 2. ~~SECTION 1543(B)(1.1)(I) OF TITLE 75 IS AMENDED TO~~ <--
22 ~~READ:~~ SECTION 1532(D) OF TITLE 75 IS AMENDED AND SUBSECTION (B) <--
23 IS AMENDED BY ADDING A PARAGRAPH TO READ:

24 § 1532. SUSPENSION OF OPERATING PRIVILEGE.

25 * * *

26 (B) SUSPENSION.--

27 * * *

28 (6) BEGINNING AS SOON AS PRACTICABLE, BUT NO LATER THAN
29 10 MONTHS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, THE
30 DEPARTMENT SHALL UPDATE DRIVER RECORDS AS FOLLOWS:

1 (I) IF A DRIVER RECORD SHOWS ON THE EFFECTIVE DATE
2 OF THIS PARAGRAPH AN ACTIVE SANCTION IMPOSED BY THE
3 DEPARTMENT FOR A CONVICTION OF ANY OFFENSE UNDER A
4 FEDERAL, STATE OR OTHER STATE'S CONTROLLED SUBSTANCE
5 LAWS, EXCEPT FOR AN OFFENSE UNDER SECTION 1532(A), THE
6 DRIVER RECORD WILL BE CHANGED TO INDICATE THE ACTIVE
7 DEPARTMENTAL SANCTION HAS ENDED. THE FOLLOWING SHALL
8 APPLY:

9 (A) IF THE ENDING OF THE ACTIVE DEPARTMENTAL
10 SANCTION MEANS A DRIVER'S OPERATING PRIVILEGE IS
11 ELIGIBLE FOR RESTORATION, NO POINTS WILL BE PLACED ON
12 THE DRIVER RECORD AS REQUIRED BY SECTION 1545
13 (RELATING TO RESTORATION OF OPERATING PRIVILEGE) AND
14 NO RESTORATION FEE SHALL BE IMPOSED AS REQUIRED BY
15 SECTION 1960 (RELATING TO REINSTATEMENT OF OPERATING
16 PRIVILEGE OR VEHICLE REGISTRATION).

17 (B) IF A DRIVER RECORD SHOWS A PENDING
18 DEPARTMENTAL SANCTION AFTER THE ACTIVE SANCTION
19 IMPOSED BY THE DEPARTMENT FOR A CONVICTION OF ANY
20 OFFENSE UNDER A FEDERAL, STATE OR OTHER STATE'S
21 CONTROLLED SUBSTANCE LAWS, EXCEPT FOR AN OFFENSE
22 UNDER SECTION 1532(A), THE EFFECTIVE DATES OF THE
23 PENDING DEPARTMENTAL SANCTION WILL BE ADJUSTED AS IF
24 THE ACTIVE SANCTION ENDED UNDER THIS SUBSECTION HAD
25 BEEN RESCINDED FROM THE RECORD.

26 (II) IF A DRIVER RECORD SHOWS ON THE EFFECTIVE DATE
27 OF THIS PARAGRAPH A PENDING SANCTION IMPOSED BY THE
28 DEPARTMENT FOR A CONVICTION OF ANY OFFENSE UNDER A
29 FEDERAL, STATE OR OTHER STATE'S CONTROLLED SUBSTANCE
30 LAWS, EXCEPT FOR AN OFFENSE UNDER SECTION 1532(A), THE

1 DRIVER RECORD WILL BE CHANGED TO INDICATE THAT THE
2 PENDING SANCTION WILL NOT BE IMPOSED. THE EFFECTIVE DATES
3 FOR A DEPARTMENTAL SANCTION TO BE IMPOSED AFTER A
4 CONVICTION OF ANY OFFENSE UNDER A FEDERAL, STATE OR OTHER
5 STATE'S CONTROLLED SUBSTANCE LAWS WILL BE ADJUSTED AS IF
6 THE CONTROLLED SUBSTANCE-RELATED DEPARTMENTAL SANCTION
7 HAD BEEN RESCINDED FROM THE RECORD.

8 (III) IF A DRIVER RECORD SHOWS ON THE EFFECTIVE DATE
9 OF THIS PARAGRAPH AN ACTIVE SUSPENSION IMPOSED UNDER
10 FORMER SUBSECTION (D), THE DRIVER RECORD WILL BE CHANGED
11 TO INDICATE THE SUSPENSION HAS ENDED. THE FOLLOWING SHALL
12 APPLY:

13 (A) IF THE ENDING OF THE SUSPENSION MEANS THE
14 DRIVER'S OPERATING PRIVILEGE IS ELIGIBLE FOR
15 RESTORATION, NO RESTORATION FEE SHALL BE IMPOSED AS
16 REQUIRED BY SECTION 1960.

17 (B) IF THE DRIVER RECORD SHOWS ANY PENDING
18 DEPARTMENTAL SANCTION AFTER THE SUSPENSION IMPOSED
19 UNDER FORMER SUBSECTION (D), THE EFFECTIVE DATES OF
20 ANY SUCH PENDING DEPARTMENTAL SANCTION WILL BE
21 ADJUSTED AS IF THE SUSPENSION ENDED UNDER THIS
22 SECTION HAD BEEN RESCINDED FROM THE RECORD.

23 (IV) IF THE DRIVER RECORD SHOWS ON THE EFFECTIVE
24 DATE OF THIS PARAGRAPH A PENDING SUSPENSION IMPOSED UNDER
25 FORMER SUBSECTION (D), THE DRIVER RECORD WILL BE CHANGED
26 TO INDICATE THE SUSPENSION WILL NOT BE IMPOSED. THE
27 EFFECTIVE DATES FOR ANY DEPARTMENTAL SANCTIONS TO BE
28 IMPOSED AFTER THE PENDING SUSPENSION UNDER FORMER
29 SUBSECTION (D) WILL BE ADJUSTED AS IF THE PENDING
30 SUSPENSION HAD BEEN RESCINDED FROM THE RECORD.

1 * * *

2 [(D) ADDITIONAL SUSPENSION.--THE DEPARTMENT SHALL SUSPEND
3 THE OPERATING PRIVILEGE OF ANY PERSON UPON RECEIVING A CERTIFIED
4 RECORD OF THE DRIVER'S CONVICTION, ADJUDICATION OF DELINQUENCY
5 OR ADMISSION INTO A PREADJUDICATION PROGRAM FOR A VIOLATION
6 UNDER 18 PA.C.S. § 6307 (RELATING TO MISREPRESENTATION OF AGE TO
7 SECURE LIQUOR OR MALT OR BREWED BEVERAGES), 6308 (RELATING TO
8 PURCHASE, CONSUMPTION, POSSESSION OR TRANSPORTATION OF LIQUOR OR
9 MALT OR BREWED BEVERAGES) OR 6310.3 (RELATING TO CARRYING A
10 FALSE IDENTIFICATION CARD). THE DURATION OF THE SUSPENSION SHALL
11 BE AS FOLLOWS:

12 (1) FOR A FIRST OFFENSE, THE DEPARTMENT SHALL IMPOSE A
13 SUSPENSION FOR A PERIOD OF 90 DAYS.

14 (2) FOR A SECOND OFFENSE, THE DEPARTMENT SHALL IMPOSE A
15 SUSPENSION FOR A PERIOD OF ONE YEAR.

16 (3) FOR A THIRD AND SUBSEQUENT OFFENSE, THE DEPARTMENT
17 SHALL IMPOSE A SUSPENSION FOR A PERIOD OF TWO YEARS. ANY
18 MULTIPLE SUSPENSIONS IMPOSED SHALL BE SERVED CONSECUTIVELY.
19 COURTS MAY CERTIFY THE CONVICTION, ADJUDICATION OF
20 DELINQUENCY OR ADMISSION INTO THE PREADJUDICATION PROGRAM ON THE
21 SAME FORM USED TO SUBMIT THE ORDER OF SUSPENSION REQUIRED UNDER
22 THE PROVISIONS OF 18 PA.C.S. § 6310.4 (RELATING TO RESTRICTION
23 OF OPERATING PRIVILEGES). WHEREVER PRACTICABLE, THE SUSPENSION
24 IMPOSED UNDER THIS SECTION SHALL BE MADE CONCURRENT WITH THE
25 SUSPENSION IMPOSED UNDER THE PROVISIONS OF 18 PA.C.S. § 6310.4.
26 ALL OFFENSES COMMITTED ON OR AFTER MAY 23, 1988, SHALL BE
27 INCLUDED IN CONSIDERING WHETHER AN OFFENSE IS A FIRST, SECOND,
28 THIRD OR SUBSEQUENT OFFENSE.]

29 SECTION 2.1. SECTIONS 1543(B) (1.1) (I) AND 1556(B) (1) AND (2)
30 OF TITLE 75 ARE AMENDED TO READ:

1 § 1543. DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR
2 REVOKED.

3 * * *

4 (B) CERTAIN OFFENSES.--

5 * * *

6 (1.1) (I) A PERSON WHO HAS AN AMOUNT OF ALCOHOL BY
7 WEIGHT IN HIS BLOOD THAT IS EQUAL TO OR GREATER THAN .02%
8 AT THE TIME OF TESTING OR WHO AT THE TIME OF TESTING HAS
9 IN HIS BLOOD ANY AMOUNT OF A SCHEDULE I OR NONPRESCRIBED
10 SCHEDULE II OR III CONTROLLED SUBSTANCE, AS DEFINED IN
11 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
12 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
13 ITS METABOLITE OR [WHO REFUSES TESTING OF BLOOD OR
14 BREATH] WHO REFUSES TESTING OF BREATH UNDER SECTION 1547
15 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF
16 ALCOHOL OR CONTROLLED SUBSTANCE) OR CHEMICAL TESTING OF
17 BLOOD PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
18 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE
19 UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA, AND
20 WHO DRIVES A MOTOR VEHICLE ON ANY HIGHWAY OR TRAFFICWAY
21 OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S
22 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A
23 CONDITION OF ACCEPTANCE OF ACCELERATED REHABILITATIVE
24 DISPOSITION FOR A VIOLATION OF SECTION 3802 OR FORMER
25 SECTION 3731 OR BECAUSE OF A VIOLATION OF SECTION 1547(B)
26 (1) OR 3802 OR FORMER SECTION 3731 OR IS SUSPENDED UNDER
27 SECTION 1581 FOR AN OFFENSE SUBSTANTIALLY SIMILAR TO A
28 VIOLATION OF SECTION 3802 OR FORMER SECTION 3731 SHALL,
29 UPON A FIRST CONVICTION, BE GUILTY OF A SUMMARY OFFENSE
30 AND SHALL BE SENTENCED TO PAY A FINE OF \$1,000 AND TO

1 UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN 90
2 DAYS.

3 * * *

4 § 1556. IGNITION INTERLOCK LIMITED LICENSE. <--

5 * * *

6 (B) PETITION.--

7 (1) AN APPLICANT FOR AN IGNITION INTERLOCK LIMITED
8 LICENSE SHALL FILE A PETITION WITH THE DEPARTMENT, BY
9 CERTIFIED MAIL, ON A FORM PRESCRIBED BY THE DEPARTMENT[, AND
10 SHALL INCLUDE PROOF THAT AN APPROVED IGNITION INTERLOCK
11 SYSTEM, AS DEFINED IN SECTION 3801, HAS BEEN INSTALLED IN ONE
12 OR MORE MOTOR VEHICLES THAT THE APPLICANT SEEKS PERMISSION TO
13 OPERATE]. THE PETITION SHALL INCLUDE PROOF OF FINANCIAL
14 RESPONSIBILITY COVERING EACH VEHICLE THE APPLICANT REQUESTS
15 TO BE PERMITTED TO OPERATE. UPON APPROVAL OF THE PETITION,
16 THE IGNITION INTERLOCK SYSTEM SHALL BE INSTALLED IN ANY MOTOR
17 VEHICLE TO BE OPERATED BY THE APPLICANT, AND PROOF OF
18 INSTALLATION SHALL BE PROVIDED BY THE IGNITION INTERLOCK
19 DEVICE VENDOR.

20 (2) [THE PETITION SHALL ALSO INCLUDE PROOF OF FINANCIAL
21 RESPONSIBILITY COVERING EACH VEHICLE THE APPLICANT REQUESTS
22 TO BE PERMITTED TO OPERATE.] THE DEPARTMENT SHALL PROMULGATE
23 REGULATIONS TO REQUIRE ADDITIONAL INFORMATION AS WELL AS
24 ADDITIONAL EVIDENCE TO VERIFY THE INFORMATION CONTAINED IN
25 THE PETITION.

26 * * *

27 SECTION 2.2. CHAPTER 15 OF TITLE 75 IS AMENDED BY ADDING A
28 SUBCHAPTER TO READ:

29 SUBCHAPTER E

30 RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM

1 SEC.
2 1591. DEFINITIONS.
3 1592. RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM.
4 1593. PROGRAM REQUIREMENTS.
5 1594. USE OF REVENUE.
6 1595. PROCEEDINGS RELATING TO VIOLATIONS BARRED.
7 § 1591. DEFINITIONS.

8 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
9 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
10 CONTEXT CLEARLY INDICATES OTHERWISE:

11 "COURT." THE ISSUING AUTHORITY OR COURT OF COMPETENT
12 JURISDICTION WHICH NOTIFIED THE DEPARTMENT OF AN INDIVIDUAL'S
13 FAILURE TO RESPOND THAT RESULTED IN THE INDEFINITE SUSPENSION OF
14 THAT INDIVIDUAL'S OPERATING PRIVILEGE UNDER SECTION 1533
15 (RELATING TO SUSPENSION OF OPERATING PRIVILEGE FOR FAILURE TO
16 RESPOND TO CITATION).

17 "PROGRAM." THE RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM
18 ESTABLISHED UNDER SECTION 1592 (RELATING TO RELIEF FROM
19 ADMINISTRATIVE SUSPENSION PROGRAM).

20 § 1592. RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM.

21 (A) ESTABLISHMENT.--THE DEPARTMENT, IN CONSULTATION WITH THE
22 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, SHALL ESTABLISH
23 THE RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM THAT SHALL
24 BEGIN ON THE EFFECTIVE DATE OF THIS SECTION AND END 12 MONTHS
25 AFTER THE EFFECTIVE DATE OF THIS SECTION.

26 (B) PURPOSES.--THE PROGRAM SHALL PERMIT THE DEPARTMENT TO
27 RESTORE THE OPERATING PRIVILEGES OF ELIGIBLE INDIVIDUALS FROM
28 SUSPENSIONS IMPOSED UNDER SECTIONS 1533(A), (B) OR (D) (RELATING
29 TO SUSPENSION OF OPERATING PRIVILEGE FOR FAILURE TO RESPOND TO
30 CITATION), 1543(A) (RELATING TO DRIVING WHILE OPERATING

1 PRIVILEGE IS SUSPENDED OR REVOKED) AND 1544(A) (RELATING TO
2 ADDITIONAL PERIOD OF REVOCATION OR SUSPENSION).

3 (C) DUTIES.--THE DEPARTMENT, IN CONSULTATION WITH THE
4 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, SHALL:

5 (1) REVIEW THE APPLICATIONS FILED FOR RELIEF UNDER THE
6 PROGRAM AND MAKE A DETERMINATION AS TO THE APPLICANT'S
7 ELIGIBILITY FOR RELIEF WITHIN 30 DAYS OF RECEIPT OF THE
8 APPLICATION AND ALL OTHER REQUIRED ITEMS.

9 (2) DETERMINE IF AN APPLICANT HAS SATISFIED ALL COURT-
10 ORDERED OBLIGATIONS WHICH RESULTED IN A SUSPENSION OF THE
11 APPLICANT'S OPERATING PRIVILEGE UNDER SECTION 1533(A), (B) OR
12 (D).

13 (3) DETERMINE IF AN APPLICANT WAS CONVICTED OF ONE OR
14 MORE VIOLATIONS UNDER SECTION 1543(A) THAT OCCURRED ONLY AS
15 THE RESULT OF A SUSPENSION IMPOSED UNDER THE AUTHORITY OF
16 SECTION 1533 OR 6146 (RELATING TO ENFORCEMENT AGREEMENTS) AND
17 IS CURRENTLY SERVING OR WILL SERVE AN OPERATING PRIVILEGE
18 SUSPENSION FOR A SECTION 1543(A) CONVICTION.

19 (4) DETERMINE WHETHER THE GRANTING OF RELIEF UNDER THE
20 PROGRAM WOULD RESULT IN IMMEDIATE RESTORATION OF THE
21 APPLICANT'S OPERATING PRIVILEGE.

22 (5) PRIORITIZE THE PROCESSING OF APPLICATIONS FOR WHICH
23 THE GRANTING OF RELIEF WILL RESULT IN AN IMMEDIATE
24 RESTORATION OF THE APPLICANT'S OPERATING PRIVILEGE.

25 (6) UPDATE ELIGIBLE APPLICANTS' DRIVER'S RECORDS AND
26 RESTORE THE OPERATING PRIVILEGE OF APPLICANTS AS PERMITTED
27 UNDER THIS TITLE.

28 (D) ELIGIBILITY.--THE PROGRAM SHALL BE AVAILABLE TO AN
29 INDIVIDUAL WHO MEETS THE FOLLOWING CRITERIA:

30 (1) THE INDIVIDUAL'S OPERATING PRIVILEGE HAS BEEN

1 INDEFINITELY SUSPENDED UNDER SECTION 1533(A), (B) OR (D)
2 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION.

3 (2) THE DEPARTMENT'S RECORDS SHOW THAT THE INDIVIDUAL'S
4 OPERATING PRIVILEGE WILL BE OR IS SUSPENDED FOR A CONVICTION
5 UNDER SECTION 1543(A) ONLY AS A RESULT OF A SUSPENSION
6 IMPOSED UNDER THE AUTHORITY OF SECTION 1533 OR 6146 PRIOR TO
7 THE EFFECTIVE DATE OF THIS SECTION.

8 (3) THE INDIVIDUAL HAS SERVED ANY OPERATING PRIVILEGE
9 SUSPENSION REQUIRED BY THE UNDERLYING OFFENSE WHICH RESULTED
10 IN VIOLATION OF SECTION 1533(A), (B) OR (D).

11 (4) THE INDIVIDUAL HAS SUBMITTED A COMPLETED APPLICATION
12 FOR RELIEF TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE
13 DEPARTMENT. THE FOLLOWING ITEMS MUST ALSO BE SUBMITTED WITH
14 THE APPLICATION:

15 (I) THE RESTORATION FEE; AND

16 (II) PROOF OF FINANCIAL RESPONSIBILITY; OR

17 (III) IN THE CASE OF AN INDIVIDUAL WHO DOES NOT OWN
18 A MOTOR VEHICLE CURRENTLY REGISTERED IN THIS
19 COMMONWEALTH, A SIGNED STATEMENT CERTIFYING THAT THE
20 INDIVIDUAL DOES NOT OWN A MOTOR VEHICLE CURRENTLY
21 REGISTERED IN THIS COMMONWEALTH.

22 (E) PROHIBITIONS.--AN INDIVIDUAL SHALL BE PROHIBITED FROM
23 RECEIVING RELIEF UNDER THE PROGRAM FOR CONVICTIONS OF VIOLATIONS
24 COMMITTED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

25 (F) REINSTATEMENT.--THE DEPARTMENT SHALL AMEND ELIGIBLE
26 INDIVIDUALS' DRIVER'S RECORDS TO SHOW THEY SATISFIED ALL COURT-
27 ORDERED OBLIGATIONS WHICH RESULTED IN A SUSPENSION OF THE
28 INDIVIDUAL'S OPERATING PRIVILEGE UNDER SECTION 1533. THE
29 DEPARTMENT SHALL AMEND ELIGIBLE INDIVIDUALS' DRIVER'S RECORDS TO
30 SHOW THAT SUSPENSIONS IMPOSED FOR RELEVANT CONVICTIONS UNDER

1 SECTION 1543(A) WILL END OR WILL NOT BE IMPOSED. ANY ADD-ON
2 SUSPENSIONS IMPOSED UNDER SECTION 1544(A) FOR VIOLATIONS THAT
3 OCCURRED AT THE SAME TIME AS A RELEVANT VIOLATION OF SECTION
4 1543(A) SHALL BE RESCINDED FROM ELIGIBLE INDIVIDUALS' DRIVER'S
5 RECORDS. THE DEPARTMENT SHALL NOT BE REQUIRED TO REINSTATE THE
6 OPERATING PRIVILEGE OF AN INDIVIDUAL UNDER THIS SUBCHAPTER IF
7 THE DEPARTMENT IS AUTHORIZED UNDER THIS TITLE TO SUSPEND THE
8 OPERATING PRIVILEGE OF THE INDIVIDUAL FOR OTHER VIOLATIONS OF
9 THIS TITLE. UPON RESTORATION FROM SUSPENSION UNDER THIS PROGRAM,
10 ELIGIBLE INDIVIDUALS' DRIVER'S RECORDS SHALL SHOW FIVE POINTS.

11 (G) COMPLIANCE.--THE DEPARTMENT MAY NOT BE REQUIRED TO
12 RESTORE THE OPERATING PRIVILEGE OF AN INDIVIDUAL UNDER THIS
13 SUBCHAPTER UNTIL THE INDIVIDUAL HAS COMPLIED WITH SECTION 1593
14 (RELATING TO PROGRAM REQUIREMENTS).
15 § 1593. PROGRAM REQUIREMENTS.

16 (A) FORM.--AN INDIVIDUAL WHO SEEKS TO PARTICIPATE IN THE
17 PROGRAM SHALL RESPOND TO THE COURT PURSUANT TO THE INSTRUCTIONS
18 IN A RESTORATION REQUIREMENTS LETTER WHICH SHALL BE PROVIDED BY
19 THE DEPARTMENT.

20 (B) SATISFACTION OF PAYMENTS OWED.--THE INDIVIDUAL IS
21 REQUIRED TO PAY 100% OF THE ORIGINAL PENALTY AND ANY OTHER
22 COURT-ORDERED OBLIGATIONS IMPOSED UNDER THE APPLICABLE LAWS OF
23 THIS COMMONWEALTH.

24 (C) REQUIREMENTS.--IN ADDITION TO THE REQUIREMENTS UNDER
25 SECTION 1960 (RELATING TO REINSTATEMENT OF OPERATING PRIVILEGE
26 OR VEHICLE REGISTRATION), AN INDIVIDUAL APPLYING FOR THE PROGRAM
27 SHALL PERFORM ONE OF THE FOLLOWING:

28 (1) PAY ALL COURT-ORDERED OBLIGATIONS IMMEDIATELY OR IN
29 A SINGLE REMITTANCE.

30 (2) IF AN INDIVIDUAL IS UNABLE TO PAY ALL OBLIGATIONS

1 UNDER SUBPARAGRAPH (I), THE INDIVIDUAL SHALL EITHER:

2 (I) PAY IN INSTALLMENTS ALL COURT-ORDERED
3 OBLIGATIONS AFTER A HEARING CONDUCTED BY THE ISSUING
4 AUTHORITY TO DETERMINE THE INDIVIDUAL'S ABILITY TO PAY
5 AND THE ISSUANCE OF AN ORDER PROVIDING FOR INSTALLMENT
6 PAYMENTS; OR

7 (II) NOTWITHSTANDING 42 PA.C.S. § 1520 (A) (RELATING
8 TO ADJUDICATION ALTERNATIVE PROGRAM), COMPLETE A COURT-
9 ORDERED PUBLIC SERVICE OR OTHER ADJUDICATION ALTERNATIVE
10 PROGRAM UNDER 42 PA.C.S. § 1520 (B).

11 (D) PROOF OF FINANCIAL RESPONSIBILITY.--NOTWITHSTANDING
12 SECTION 1783 (RELATING TO PROOF OF FINANCIAL RESPONSIBILITY
13 BEFORE RESTORING OPERATING PRIVILEGE OR REGISTRATION), BEFORE
14 RESTORING AN OPERATING PRIVILEGE, THE DEPARTMENT SHALL REQUIRE
15 AN INDIVIDUAL PARTICIPATING IN THE PROGRAM TO PROVIDE THE
16 DEPARTMENT WITH:

17 (1) PROOF OF FINANCIAL RESPONSIBILITY; OR

18 (2) IN THE CASE OF AN INDIVIDUAL WHO DOES NOT OWN A
19 MOTOR VEHICLE CURRENTLY REGISTERED IN THIS COMMONWEALTH, A
20 SIGNED STATEMENT CERTIFYING THAT THE INDIVIDUAL DOES NOT OWN
21 A MOTOR VEHICLE CURRENTLY REGISTERED IN THIS COMMONWEALTH.

22 (E) CERTIFICATION.--THE COURT SHALL CERTIFY TO THE
23 DEPARTMENT THAT AN INDIVIDUAL IS ELIGIBLE FOR RELIEF UNDER THE
24 PROGRAM BECAUSE:

25 (1) AN INDIVIDUAL HAS SATISFIED THE AMOUNTS OWED TO THE
26 COURT; OR

27 (2) AN INDIVIDUAL HAS COMPLETED OR SATISFIED ALL COURT-
28 ORDERED PUBLIC SERVICE REQUIREMENTS OR OTHER ALTERNATIVE
29 ADJUDICATION PROGRAMS.

30 § 1594. USE OF REVENUE.

1 ALL REVENUE RECEIVED BY THE COURT UNDER THE PROGRAM SHALL BE
2 DISTRIBUTED IN ACCORDANCE WITH LAW.

3 § 1595. PROCEEDINGS RELATING TO VIOLATIONS BARRED.

4 PARTICIPATION IN THE PROGRAM IS CONDITIONED UPON THE
5 INDIVIDUAL'S AGREEMENT NOT TO PROTEST OR PURSUE AN
6 ADMINISTRATIVE OR JUDICIAL PROCEEDING AGAINST THE DEPARTMENT FOR
7 THE SANCTIONS IT IMPOSED ON THE INDIVIDUAL'S OPERATING PRIVILEGE
8 UNDER SECTION 1533 (RELATING TO SUSPENSION OF OPERATING
9 PRIVILEGE FOR FAILURE TO RESPOND TO CITATION), 1543 (RELATING TO
10 DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED), 1544
11 (RELATING TO ADDITIONAL PERIOD OF REVOCATION OR SUSPENSION) OR
12 6146 (RELATING TO ENFORCEMENT AGREEMENTS) AS ADDRESSED BY THE
13 PROGRAM.

14 SECTION 2.3. THE DEFINITION OF "CONTROLLED SUBSTANCE" IN
15 SECTION 1603 OF TITLE 75 IS AMENDED TO READ:

16 § 1603. DEFINITIONS.

17 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
18 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
19 CONTEXT CLEARLY INDICATES OTHERWISE:

20 * * *

21 "CONTROLLED SUBSTANCE." ANY SUBSTANCE SO DEFINED OR
22 CLASSIFIED, EXCEPT MARIJUANA USED LAWFULLY IN ACCORDANCE WITH
23 THE ACT OF APRIL 17, 2016 (P.L.84, NO.16), KNOWN AS THE MEDICAL
24 MARIJUANA ACT, UNDER:

25 (1) THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS
26 THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

27 (2) SECTION 102(6) OF THE CONTROLLED SUBSTANCE ACT
28 (PUBLIC LAW 91-513, 21 U.S.C. § 802(6)).

29 (3) SCHEDULES I THROUGH V OF 21 CFR PART 1308.

30 (4) ANY REVISIONS TO PARAGRAPHS (2) OR (3) WHICH ARE

1 PUBLISHED BY THE DEPARTMENT OF TRANSPORTATION AS NOTICES IN
2 THE PENNSYLVANIA BULLETIN.

3 * * *

4 SECTION 3. ~~SECTION~~ SECTIONS 3802(D) AND 3803(B)(3) AND (4.1) <--
5 OF TITLE 75 ARE AMENDED TO READ:

6 § 3802. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
7 SUBSTANCE.

8 * * *

9 (D) CONTROLLED SUBSTANCES.--AN INDIVIDUAL MAY NOT DRIVE,
10 OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A
11 VEHICLE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

12 (1) THERE IS IN THE INDIVIDUAL'S BLOOD ANY AMOUNT OF
13 [A]:

14 (I) A SCHEDULE I CONTROLLED SUBSTANCE, AS DEFINED IN
15 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
16 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT,
17 EXCEPT MARIJUANA USED LAWFULLY IN ACCORDANCE WITH THE ACT
18 OF APRIL 17, 2016 (P.L.84, NO.16), KNOWN AS THE MEDICAL
19 MARIJUANA ACT;

20 (II) A SCHEDULE II OR SCHEDULE III CONTROLLED
21 SUBSTANCE, AS DEFINED IN THE CONTROLLED SUBSTANCE, DRUG,
22 DEVICE AND COSMETIC ACT, WHICH HAS NOT BEEN MEDICALLY
23 PRESCRIBED FOR THE INDIVIDUAL; OR

24 (III) METABOLITE OF A SUBSTANCE UNDER SUBPARAGRAPH
25 (I) OR (II).

26 * * *

27 § 3803. GRADING.

28 * * *

29 (B) OTHER OFFENSES.--

30 * * *

1 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1) WHERE
2 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
3 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A
4 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B),
5 (E) OR (F) AND WHO HAS TWO PRIOR OFFENSES COMMITS A
6 ~~[MISDEMEANOR OF THE FIRST]~~ FELONY OF THE THIRD DEGREE.

7 * * *

8 (4.1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1)
9 WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
10 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
11 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED
12 STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES
13 SECTION 3802(C) OR (D) ~~[AND WHO]~~ COMMITTS:

14 (I) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL
15 HAS TWO [OR MORE] PRIOR OFFENSES [COMMITTS A FELONY OF THE
16 THIRD DEGREE].

17 (II) A FELONY OF THE SECOND DEGREE IF THE INDIVIDUAL
18 HAS THREE OR MORE PRIOR OFFENSES. <--

19 ~~(III) A FELONY OF THE FIRST DEGREE IF THE INDIVIDUAL~~ <--
20 ~~HAS FOUR OR MORE PRIOR OFFENSES.~~

21 * * *

22 SECTION 4. SECTION 3804(E) (2) OF TITLE 75 IS AMENDED AND THE
23 SECTION IS AMENDED BY ADDING ~~A SUBSECTION~~ SUBSECTIONS TO READ: <--
24 § 3804. PENALTIES.

25 * * *

26 (C.2) CONSECUTIVE SENTENCE.--A SENTENCE IMPOSED UPON AN
27 INDIVIDUAL UNDER THIS SECTION WHO HAS TWO OR MORE PRIOR OFFENSES
28 SHALL BE SERVED CONSECUTIVELY TO ANY OTHER SENTENCE THE
29 INDIVIDUAL IS SERVING AND TO ANY OTHER SENTENCE BEING THEN
30 IMPOSED BY THE COURT, EXCEPT FOR THOSE WITH WHICH THE OFFENSE <--

1 MUST MERGE AS A MATTER OF LAW.

2 (C.3) SENTENCING ENHANCEMENT.--THE PENNSYLVANIA COMMISSION
3 ON SENTENCING, UNDER 42 PA.C.S. § 2154 (RELATING TO ADOPTION OF
4 GUIDELINES FOR SENTENCING), SHALL PROVIDE FOR A SENTENCING
5 ENHANCEMENT FOR A VIOLATION OF SECTION 3802(A) (1) WHERE THE
6 INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL TESTING
7 PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY OTHER
8 BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES AND
9 THE CONSTITUTION OF PENNSYLVANIA OR FOR A VIOLATION OF SECTION
10 3802(C) OR (D) AND WHERE THE INDIVIDUAL HAS FOUR OR MORE PRIOR
11 OFFENSES.

12 * * *

13 (E) SUSPENSION OF OPERATING PRIVILEGES UPON CONVICTION.--

14 * * *

15 (2) SUSPENSION UNDER PARAGRAPH (1) SHALL BE IN
16 ACCORDANCE WITH THE FOLLOWING:

17 * * *

18 (II) 18 MONTHS FOR A MISDEMEANOR OF THE FIRST DEGREE
19 OR FELONY [OF THE THIRD DEGREE] UNDER THIS CHAPTER.

20 * * *

21 SECTION 5. SECTION 3805(C) AND (H.2) OF TITLE 75 ARE AMENDED
22 AND THE SECTION IS AMENDED BY ADDING ~~A SUBSECTION~~ SUBSECTIONS TO <--
23 READ:

24 § 3805. IGNITION INTERLOCK.

25 * * *

26 (C) ISSUANCE OF UNRESTRICTED LICENSE.-- [ONE YEAR FROM THE
27 DATE OF ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE
28 UNDER THIS SECTION, IF] IF OTHERWISE ELIGIBLE, A PERSON MAY BE
29 ISSUED A REPLACEMENT LICENSE UNDER SECTION 1951(D) THAT DOES NOT
30 CONTAIN THE IGNITION INTERLOCK SYSTEM RESTRICTION. THE

1 DEPARTMENT SHALL NOT ISSUE AN UNRESTRICTED LICENSE UNTIL A
2 PERSON HAS PRESENTED ALL OF THE FOLLOWING:

3 (1) PROOF THAT THE PERSON HAS COMPLETED THE IGNITION
4 INTERLOCK RESTRICTED LICENSE PERIOD UNDER [THIS SECTION]
5 SUBSECTION (C.1).

6 (2) CERTIFICATION BY THE VENDOR THAT PROVIDED THE
7 IGNITION INTERLOCK DEVICE THAT THE PERSON HAS COMPLIED WITH
8 SUBSECTION (H.2).

9 (C.1) RESTRICTED LICENSE PERIOD.--AN INDIVIDUAL MAY BE
10 ISSUED AN UNRESTRICTED LICENSE UNDER SUBSECTION (C) AFTER A
11 PERIOD OF TIME AS FOLLOWS:

12 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), ONE YEAR
13 FROM THE DATE OF ISSUANCE OF THE IGNITION INTERLOCK
14 RESTRICTED LICENSE.

15 (2) TWO YEARS FROM THE DATE OF ISSUANCE OF THE IGNITION
16 INTERLOCK RESTRICTED LICENSE IN THE CASE OF AN INDIVIDUAL
17 CONVICTED OF AN OFFENSE UNDER SECTION 3802 WHO HAS TWO OR
18 MORE PRIOR OFFENSES.

19 * * *

20 (H.2) DECLARATION OF COMPLIANCE.--RESTRICTIONS IMPOSED UNDER
21 SECTION 1556 [(RELATING TO IGNITION INTERLOCK LIMITED LICENSE)]
22 SHALL REMAIN IN EFFECT UNTIL THE DEPARTMENT RECEIVES A
23 DECLARATION FROM THE PERSON'S IGNITION INTERLOCK DEVICE VENDOR,
24 IN A FORM PROVIDED OR APPROVED BY THE DEPARTMENT, CERTIFYING
25 THAT THE FOLLOWING INCIDENTS HAVE NOT OCCURRED IN THE TWO
26 CONSECUTIVE MONTHS PRIOR TO THE DATE ENTERED ON THE CERTIFICATE,
27 AND FOR THE PURPOSES OF A SUSPENSION IMPOSED UNDER SECTION
28 3807(D)(2), THE PERSON'S IGNITION INTERLOCK DEVICE VENDOR SHALL
29 CERTIFY THE FOLLOWING INCIDENTS HAVE NOT OCCURRED IN THE PRIOR
30 30 DAYS ENTERED ON THE CERTIFICATE:

1 (1) AN ATTEMPT TO START THE VEHICLE WITH A BREATH
2 ALCOHOL CONCENTRATION OF 0.08% OR MORE, NOT FOLLOWED WITHIN
3 10 MINUTES BY A SUBSEQUENT ATTEMPT WITH A BREATH ALCOHOL
4 CONCENTRATION LOWER THAN 0.08%.

5 (2) FAILURE TO TAKE OR PASS ANY REQUIRED RETEST.

6 (3) FAILURE OF THE PERSON TO APPEAR AT THE IGNITION
7 INTERLOCK SYSTEM VENDOR WHEN REQUIRED FOR MAINTENANCE,
8 REPAIR, CALIBRATION, MONITORING, INSPECTION OR REPLACEMENT OF
9 THE DEVICE SUCH THAT THE IGNITION INTERLOCK SYSTEM NO LONGER
10 FUNCTIONS AS REQUIRED UNDER SUBSECTION (H).

11 (H.3) NOTICE TO DEPARTMENT.--IF A VIOLATION UNDER SUBSECTION <--
12 (H.2) (1), (2) OR (3) OCCURS IN THE TWO CONSECUTIVE MONTHS PRIOR
13 TO THE DATE ENTERED ON THE CERTIFICATE, THE VENDOR SHALL NOTIFY
14 THE DEPARTMENT AS TO THE VIOLATION ON A FORM DESIGNATED BY THE
15 DEPARTMENT, AND THE DEPARTMENT SHALL NOTIFY THE PERSON OF THE
16 VIOLATION AND THAT IGNITION INTERLOCK DEVICE USAGE SHALL
17 CONTINUE UNTIL NO VIOLATIONS HAVE OCCURRED WITHIN A 60-DAY
18 PERIOD.

19 * * *

20 SECTION 6. SECTION 3806(B) (1) OF TITLE 75 IS AMENDED TO
21 READ:

22 § 3806. PRIOR OFFENSES.

23 * * *

24 (B) TIMING.--

25 (1) FOR PURPOSES OF SECTIONS 1553(D.2) (RELATING TO
26 OCCUPATIONAL LIMITED LICENSE), 1556 (RELATING TO IGNITION
27 INTERLOCK LIMITED LICENSE), 3803 (RELATING TO GRADING), 3804
28 (RELATING TO PENALTIES) [AND], 3805 (RELATING TO IGNITION
29 INTERLOCK), 3815 (RELATING TO MANDATORY SENTENCING) AND 3818
30 (RELATING TO SUBSTANCE MONITORING PROGRAM), THE PRIOR OFFENSE

1 MUST HAVE OCCURRED:

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

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

6 * * *

7 SECTION 7. SECTION 3807(B)(4) OF TITLE 75 IS AMENDED AND
8 SUBSECTION (A) IS AMENDED BY ADDING A PARAGRAPH TO READ: <--

9 § 3807. ACCELERATED REHABILITATIVE DISPOSITION.

10 (A) ELIGIBILITY.--

11 * * *

12 (2.1) NOTWITHSTANDING THE PROCEDURES FOR ACCELERATED
13 REHABILITATIVE DISPOSITION FOR OTHER CRIMES, THE ATTORNEY FOR
14 THE COMMONWEALTH SHALL NOT SUBMIT A CHARGE BROUGHT UNDER THIS
15 CHAPTER FOR ACCELERATED REHABILITATIVE DISPOSITION UNLESS
16 ALL OF THE FOLLOWING APPLY:

17 (I) THE DEFENDANT ADMITS THAT THE COMMONWEALTH'S
18 EVIDENCE WOULD PROVE THE ELEMENTS BEYOND A REASONABLE
19 DOUBT UNDER SECTION 3802.

20 (II) THE DEFENDANT AGREES THAT THE DEFENDANT'S
21 ADMISSION MAY BE USED AS A PRIOR CONVICTION FOR THE
22 PURPOSE OF INCREASING THE GRADING AND PENALTY OF ANY
23 SUBSEQUENT OFFENSE UNDER THIS TITLE.

24 (III) THE DEFENDANT KNOWINGLY AND VOLUNTARILY WAIVES
25 THE DEFENDANT'S RIGHT TO CHALLENGE THE USE OF THE
26 ACCELERATED REHABILITATIVE DISPOSITION AS A PRIOR
27 CONVICTION FOR THE PURPOSE OF ENHANCING THE GRADING AND
28 SENTENCING OF ANY SUBSEQUENT OFFENSE UNDER THIS TITLE.

29 * * *

30 (B) EVALUATION AND TREATMENT.-- <--

1 * * *

2 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
3 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
4 ALL OF THE FOLLOWING:

5 (I) LENGTH OF STAY.

6 (II) LEVELS OF CARE.

7 (III) FOLLOW-UP CARE AND MONITORING.

8 (IV) THE USE OF MEDICATION-ASSISTED TREATMENT IN
9 CONJUNCTION WITH BEHAVIORAL THERAPIES IF THE TREATMENT IS
10 CLINICALLY APPROPRIATE.

11 * * *

12 SECTION 7.1. SECTIONS 3810 AND 3814(4) OF TITLE 75 ARE
13 AMENDED TO READ:

14 § 3810. AUTHORIZED USE NOT A DEFENSE.

15 THE FACT THAT A PERSON CHARGED WITH VIOLATING THIS CHAPTER IS
16 OR HAS BEEN LEGALLY ENTITLED TO USE ALCOHOL [OR], CONTROLLED
17 SUBSTANCES OR MARIJUANA IN COMPLIANCE WITH THE ACT OF APRIL 17,
18 2016 (P.L.84, NO.16), KNOWN AS THE MEDICAL MARIJUANA ACT, IS NOT
19 A DEFENSE TO A CHARGE OF VIOLATING THIS CHAPTER.

20 § 3814. DRUG AND ALCOHOL ASSESSMENTS.

21 IF A DEFENDANT IS CONVICTED OR PLEADS GUILTY OR NO CONTEST TO
22 A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE
23 OF ALCOHOL OR CONTROLLED SUBSTANCE), THE FOLLOWING APPLY PRIOR
24 TO SENTENCING:

25 * * *

26 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
27 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
28 ALL OF THE FOLLOWING:

29 (I) LENGTH OF STAY.

30 (II) LEVELS OF CARE.

1 (III) FOLLOW-UP CARE AND MONITORING.

2 (IV) THE USE OF MEDICATION-ASSISTED TREATMENT IN
3 CONJUNCTION WITH BEHAVIORAL THERAPIES IF THE TREATMENT IS
4 CLINICALLY APPROPRIATE.

5 SECTION 8. SECTION 3815(B)(2) OF TITLE 75 IS AMENDED AND THE
6 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

7 § 3815. MANDATORY SENTENCING.

8 * * *

9 (B) PAROLE.--

10 * * *

11 (2) THE FOLLOWING SHALL BE CONDITIONS OF PAROLE:

12 (I) IF THE OFFENDER IS NOT DETERMINED UNDER THE
13 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
14 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST REFRAIN
15 FROM:

16 (A) THE USE OF ILLEGAL CONTROLLED SUBSTANCES;

17 AND

18 (B) THE ABUSE OF PRESCRIPTION DRUGS, OVER-THE-
19 COUNTER DRUGS OR ANY OTHER SUBSTANCES.

20 (II) IF THE OFFENDER IS DETERMINED UNDER THE
21 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
22 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST DO ALL OF
23 THE FOLLOWING:

24 (A) REFRAIN FROM:

25 (I) THE USE OF ALCOHOL OR ILLEGAL CONTROLLED
26 SUBSTANCES; AND

27 (II) THE ABUSE OF PRESCRIPTION DRUGS, OVER-
28 THE-COUNTER DRUGS OR ANY OTHER SUBSTANCES.

29 (B) PARTICIPATE IN AND COOPERATE WITH DRUG AND
30 ALCOHOL ADDICTION TREATMENT UNDER SUBSECTION (C).

1 (III) IN ADDITION TO ANY OTHER CONDITION OR
2 RESTRICTION IMPOSED, AN INDIVIDUAL WHO VIOLATES SECTION
3 3802(A) (1) WHERE THE INDIVIDUAL REFUSED TESTING OR BREATH <--
4 OR CHEMICAL TESTING PURSUANT TO A VALID SEARCH WARRANT,
5 COURT ORDER OR ANY OTHER BASIS PERMISSIBLE BY THE
6 CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF
7 PENNSYLVANIA OR WHO VIOLATES SECTION 3802(C) OR (D) AND
8 WHO HAS TWO OR MORE PRIOR OFFENSES SHALL BE ORDERED BY
9 THE COURT TO PARTICIPATE IN A SUBSTANCE MONITORING
10 PROGRAM UNDER SECTION 3818. 3802 AND WHO HAS ONE OR MORE <--
11 PRIOR OFFENSES MAY BE ORDERED BY THE COURT TO PARTICIPATE
12 IN A SUBSTANCE MONITORING PROGRAM UNDER SECTION 3818.

13 (B.1) PROBATION.--IN ADDITION TO ANY OTHER CONDITION OR
14 RESTRICTION IMPOSED, AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) <--
15 (1) WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
16 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY
17 OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES
18 AND THE CONSTITUTION OF PENNSYLVANIA OR WHO VIOLATES SECTION
19 3802(C) OR (D) AND WHO HAS TWO OR MORE PRIOR OFFENSES SHALL BE
20 ORDERED BY THE COURT TO PARTICIPATE IN A SUBSTANCE MONITORING
21 PROGRAM AS A CONDITION OF PROBATION UNDER SECTION 3818. 3802 AND <--
22 WHO HAS ONE OR MORE PRIOR OFFENSES MAY BE ORDERED BY THE COURT
23 TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS A CONDITION
24 OF PROBATION UNDER SECTION 3818.

25 * * *

26 SECTION 9. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
27 § 3818. SUBSTANCE MONITORING PROGRAM.

28 (A) MANDATORY PARTICIPATION. A COURT SHALL REQUIRE AN <--
29 INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS
30 FOLLOWS:

1 ~~(1) AS A CONDITION OF PROBATION OR PAROLE, IN ADDITION~~
2 ~~TO ANY OTHER CONDITION OR RESTRICTION IMPOSED, A COURT SHALL~~
3 ~~ORDER AN INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING~~
4 ~~PROGRAM FOR ONE YEAR OR FOR THE DURATION OF THE PROBATION OR~~
5 ~~PAROLE, WHICHEVER IS LESS, IN ALL OF THE FOLLOWING~~
6 ~~CIRCUMSTANCES WHERE THE INDIVIDUAL HAS TWO OR MORE PRIOR~~
7 ~~OFFENSES:~~

8 ~~(I) THE INDIVIDUAL VIOLATES SECTION 3802(C) OR (D)~~
9 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
10 ~~CONTROLLED SUBSTANCE).~~

11 ~~(II) THE INDIVIDUAL VIOLATES SECTION 3802(A)(1) AND~~
12 ~~THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL~~
13 ~~TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER~~
14 ~~OR ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE~~
15 ~~UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA.~~

16 ~~(2) AS A CONDITION OF BAIL, IN ADDITION TO ANY OTHER~~
17 ~~CONDITION OR RESTRICTION IMPOSED, A COURT SHALL ORDER AN~~
18 ~~INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM~~
19 ~~FOR NO LESS THAN 90 DAYS IN ALL OF THE FOLLOWING~~
20 ~~CIRCUMSTANCES:~~

21 ~~(I) THE INDIVIDUAL IS PENDING ADJUDICATION FOR A~~
22 ~~VIOLATION OF SECTION 3802 AND HAS THREE OR MORE PRIOR~~
23 ~~OFFENSES.~~

24 ~~(II) THE INDIVIDUAL IS PENDING ADJUDICATION FOR A~~
25 ~~VIOLATION OF SECTION 3802 AND HAS A COMBINATION OF PRIOR~~
26 ~~OFFENSES AND PENDING ADJUDICATIONS FOR A VIOLATION OF~~
27 ~~SECTION 3802 EQUAL TO THREE OR MORE.~~

28 ~~(B) EVALUATION REQUIRED. IN ADDITION TO ANY OTHER CONDITION~~
29 ~~OR RESTRICTION IMPOSED, AN INDIVIDUAL WHO IS NOT REQUIRED TO~~
30 ~~PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM UNDER SUBSECTION~~

~~(A) SHALL BE EVALUATED BY A COURT TO DETERMINE WHETHER, AT THE COURT'S DISCRETION, THE INDIVIDUAL MAY BE ORDERED TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS FOLLOWS:~~

~~(1) AS A CONDITION OF PROBATION OR PAROLE WHERE THE INDIVIDUAL VIOLATES SECTION 3802 AND HAS ONE OR MORE PRIOR OFFENSES.~~

~~(2) AS A CONDITION OF BAIL WHERE THE INDIVIDUAL IS PENDING ADJUDICATION FOR A VIOLATION OF SECTION 3802 AND HAS ONE OR MORE PRIOR OFFENSES.~~

~~(3) AS A CONDITION OF BAIL WHERE THE INDIVIDUAL IS PENDING ADJUDICATION CONCURRENTLY FOR TWO OR MORE VIOLATIONS OF SECTION 3802.~~

~~(C) PROGRAM REQUIREMENTS.~~

~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), WHEN DETERMINING THE MONITORING DEVICES, TECHNOLOGIES OR TESTING REQUIREMENTS TO BE REQUIRED AS PART OF A SUBSTANCE MONITORING PROGRAM, THE COURT SHALL HAVE THE DISCRETION TO DETERMINE THE DEVICES, TECHNOLOGIES AND TESTING REQUIREMENTS TO BE USED BASED UPON THE INDIVIDUAL'S:~~

~~(I) PRIOR OFFENSES;~~

~~(II) MOST RECENT VIOLATION OF SECTION 3802;~~

~~(III) ANY PENDING ADJUDICATION FOR A VIOLATION OF SECTION 3802; AND~~

~~(IV) ANY OTHER FACTOR DEEMED APPROPRIATE BY THE COURT.~~

~~(2) THE COURT SHALL REQUIRE THE USE OF A CONTINUOUS ALCOHOL MONITORING DEVICE AS PART OF A SUBSTANCE MONITORING PROGRAM FOR AN INDIVIDUAL PARTICIPATING IN A SUBSTANCE MONITORING PROGRAM UNDER SUBSECTION (A) AS FOLLOWS:~~

~~(I) IF THE INDIVIDUAL VIOLATED SECTION 3802(C);~~

1 ~~(II) IF THE INDIVIDUAL HAS A PENDING ADJUDICATION~~
2 ~~FOR A VIOLATION OF SECTION 3802(C);~~

3 ~~(III) IF THE INDIVIDUAL HAS A PRIOR OFFENSE FOR A~~
4 ~~VIOLATION OF SECTION 3802(B) OR (C);~~

5 ~~(IV) IF THE INDIVIDUAL VIOLATED SECTION 3802(A)(1)~~
6 ~~AND REFUSED TESTING OF BREATH OR CHEMICAL TESTING~~
7 ~~PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY~~
8 ~~OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED~~
9 ~~STATES AND THE CONSTITUTION OF PENNSYLVANIA; OR~~

10 ~~(V) IF THE INDIVIDUAL IS PENDING ADJUDICATION FOR A~~
11 ~~VIOLATION OF SECTION 3802(A)(1) AND REFUSED TESTING FOR~~
12 ~~BREATH OR CHEMICAL TESTING PURSUANT TO A VALID SEARCH~~
13 ~~WARRANT, COURT ORDER OR ANY OTHER BASIS PERMISSIBLE BY~~
14 ~~THE CONSTITUTION OF THE UNITED STATES AND THE~~
15 ~~CONSTITUTION OF PENNSYLVANIA.~~

16 ~~(3) THE COURT SHALL REQUIRE A REMOTE BREATH TESTING~~
17 ~~DEVICE IN LIEU OF A CONTINUOUS ALCOHOL MONITORING DEVICE~~
18 ~~REQUIRED UNDER PARAGRAPH (2) IF THE INDIVIDUAL IS UNABLE TO~~
19 ~~USE A CONTINUOUS ALCOHOL MONITORING DEVICE DUE TO A PHYSICAL~~
20 ~~LIMITATION OR MEDICAL CONDITION AS DETERMINED BY THE COURT.~~

21 ~~(D) DETERMINATION AND COSTS TO BE PAID.~~

22 ~~(1) IF THE COURT ORDERS AN INDIVIDUAL TO PARTICIPATE IN~~
23 ~~(A) EVALUATION REQUIRED.--THE FOLLOWING SHALL APPLY:~~ <--

24 ~~(1) IN ALL OF THE FOLLOWING CIRCUMSTANCES, IN ADDITION~~
25 ~~TO ANY OTHER CONDITION OR RESTRICTION IMPOSED, AN INDIVIDUAL~~
26 ~~SHALL BE EVALUATED BY A COURT TO DETERMINE WHETHER, AT THE~~
27 ~~COURT'S DISCRETION, THE INDIVIDUAL MAY BE ORDERED TO~~
28 ~~PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM:~~

29 ~~(I) WHILE ADJUDICATION OF A VIOLATION OF SECTION~~
30 ~~3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~

1 CONTROLLED SUBSTANCE) IS PENDING FOR AN INDIVIDUAL WHO
2 HAS ONE OR MORE PRIOR OFFENSES.

3 (II) WHILE ADJUDICATION OF TWO OR MORE VIOLATIONS OF
4 SECTION 3802 ARE CONCURRENTLY PENDING FOR AN INDIVIDUAL.

5 (III) AS A CONDITION OF PROBATION OR PAROLE WHERE
6 THE INDIVIDUAL VIOLATES SECTION 3802 AND HAS ONE OR MORE
7 PRIOR OFFENSES.

8 (2) THE COURT MAY USE THE ASSESSMENT FROM SECTION 3814
9 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS) TO SATISFY THIS
10 REQUIREMENT UNDER PARAGRAPH (1).

11 (B) MONITORING DEVICES AND TECHNOLOGIES.--

12 (1) A SUBSTANCE MONITORING PROGRAM SHALL INCLUDE A
13 REQUIREMENT THAT THE INDIVIDUAL USE OR PARTICIPATE IN ONE OR
14 BOTH OF THE FOLLOWING, AS DETERMINED BY THE COURT:

15 (I) A CONTINUOUS ALCOHOL MONITORING DEVICE, REMOTE
16 BREATH TESTING DEVICE OR ANY OTHER SIMILAR ALCOHOL
17 MONITORING TECHNOLOGY OR DEVICE, OTHER THAN AN IGNITION
18 INTERLOCK SYSTEM, AS DETERMINED BY THE COURT.

19 (II) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
20 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE AS DETERMINED
21 BY THE COURT.

22 (2) WHEN DETERMINING THE DEVICES OR TECHNOLOGIES TO BE
23 USED UNDER PARAGRAPH (1), THE COURT SHALL CONSIDER THE
24 INDIVIDUAL'S:

25 (I) PRIOR OFFENSES;

26 (II) MOST RECENT VIOLATION OF SECTION 3802;

27 (III) ANY PENDING ADJUDICATION FOR A VIOLATION OF
28 SECTION 3802;

29 (IV) IN CONSULTATION WITH THE COUNTY, THE MONITORING
30 DEVICES AND TECHNOLOGIES AVAILABLE TO OR UTILIZED BY THE

1 COUNTY; AND

2 (V) ANY OTHER FACTOR DEEMED APPROPRIATE BY THE
3 COURT.

4 (C) DETERMINATION AND COSTS TO BE PAID.--IF THE COURT ORDERS
5 AN INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM,
6 THE INDIVIDUAL SHALL PAY FOR COSTS ASSOCIATED WITH THE
7 INDIVIDUAL'S PARTICIPATION IN THE SUBSTANCE MONITORING PROGRAM,
8 INCLUDING COSTS ASSOCIATED WITH ANY REQUIRED DEVICE OR
9 TECHNOLOGY.

10 ~~(2) THE COURT MAY ORDER THE COUNTY TO FINANCE COSTS~~ <--
11 ~~ASSOCIATED WITH THE SUBSTANCE MONITORING PROGRAM IF THE~~
12 ~~COURT, AT ANY TIME, DETERMINES THE INDIVIDUAL LACKS THE~~
13 ~~FINANCIAL ABILITY TO PAY COSTS ASSOCIATED WITH THE~~
14 ~~INDIVIDUAL'S PARTICIPATION IN A SUBSTANCE MONITORING PROGRAM.~~
15 ~~(E) FINANCIAL INQUIRY.~~

16 ~~(1) A COURT DETERMINATION UNDER SUBSECTION (D) SHALL BE~~
17 ~~BASED ON AN APPROPRIATE INQUIRY INTO THE FINANCIAL~~
18 ~~CIRCUMSTANCES OF THE INDIVIDUAL REQUIRED TO PARTICIPATE IN A~~
19 ~~SUBSTANCE MONITORING PROGRAM AND AN AFFIDAVIT OR CERTIFICATE,~~
20 ~~SIGNED BY THAT INDIVIDUAL, DEMONSTRATING FINANCIAL INABILITY~~
21 ~~TO PAY ALL OR PART OF THE COSTS ASSOCIATED WITH THE SUBSTANCE~~
22 ~~MONITORING PROGRAM.~~

23 ~~(2) A COURT MAY REASSESS THE INDIVIDUAL'S ABILITY TO PAY~~
24 ~~AT ANY TIME DURING THE DURATION OF THE SUBSTANCE MONITORING~~
25 ~~PROGRAM AND MAKE SUBSEQUENT APPROPRIATE INQUIRIES INTO THE~~
26 ~~FINANCIAL CIRCUMSTANCES OF THE INDIVIDUAL.~~

27 ~~(F) (D) PROHIBITIONS.--AN INDIVIDUAL ORDERED TO PARTICIPATE~~ <--
28 IN A SUBSTANCE MONITORING PROGRAM IS PROHIBITED FROM ALL OF THE
29 FOLLOWING FOR THE DURATION OF THE SUBSTANCE MONITORING PROGRAM:

30 (1) IMBIBING ALCOHOL, USING CONTROLLED SUBSTANCES, OR

1 BOTH, AS DETERMINED BY THE COURT.

2 (2) TAMPERING WITH ANY DEVICE OR TECHNOLOGY ASSOCIATED
3 WITH THE SUBSTANCE MONITORING PROGRAM.

4 (3) FAILING TO COMPLY WITH ANY OTHER REQUIREMENT ORDERED
5 BY THE COURT AS PART OF THE SUBSTANCE MONITORING PROGRAM.

6 ~~(G)~~ (E) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE <--
7 CONSTRUED TO PROHIBIT A COURT FROM:

8 (1) ORDERING AN INDIVIDUAL PENDING ADJUDICATION FOR A
9 SINGLE VIOLATION OF SECTION 3802 WITH NO PRIOR OFFENSES TO
10 PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS A CONDITION
11 OF BAIL.

12 (2) ORDERING AN INDIVIDUAL CONVICTED OF A VIOLATION OF
13 SECTION 3802 WHO HAS NO PRIOR OFFENSES TO PARTICIPATE IN A
14 SUBSTANCE MONITORING PROGRAM AS A CONDITION OF PROBATION OR
15 PAROLE.

16 SECTION 10. THIS ACT SHALL TAKE EFFECT ~~IN 120 DAYS.~~ AS <--
17 FOLLOWS:

18 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
19 IMMEDIATELY:

20 (I) THE AMENDMENT OF 75 PA.C.S. § 1543(B)(1.1)(I).

21 (II) THE ADDITION OF 75 PA.C.S. § 3807(A)(2.1).

22 (III) THIS SECTION.

23 (2) THE AMENDMENT OR ADDITION OF 75 PA.C.S. § 1532(B)(6)
24 AND (D) SHALL TAKE EFFECT IN 60 DAYS.

25 (3) THE AMENDMENT OR ADDITION OF 75 PA.C.S. § 3805(C)
26 AND (C.1) SHALL TAKE EFFECT IN 90 DAYS.

27 (4) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN EIGHT
28 MONTHS:

29 (I) THE AMENDMENT OF 75 PA.C.S. § 1556(B)(1) AND

30 (2).

1 (II) THE ADDITION OF 75 PA.C.S. § 3805(H.3) .
2 (5) THE ADDITION OF 75 PA.C.S. CH. 15 SUBCH. E SHALL
3 TAKE EFFECT IN 10 MONTHS.
4 (6) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 120
5 DAYS.