

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1712 Session of
2023

INTRODUCED BY C. WILLIAMS, PICKETT, HANBIDGE, M. JONES, MARCELL,
GUENST, GILLEN, STEELE, STRUZZI AND OTTEN, SEPTEMBER 25, 2023

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 25, 2023

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75
2 (Vehicles) of the Pennsylvania Consolidated Statutes, in
3 sentencing, further providing for sentence of total
4 confinement; in general provisions, further providing for
5 definitions; in licensing of drivers, further providing for
6 the offense of driving while operating privilege is suspended
7 or revoked and for ignition interlock limited license; and,
8 in driving after imbibing alcohol or utilizing drugs, further
9 providing for ignition interlock, for prior offenses, for
10 Accelerated Rehabilitative Disposition, for drug and alcohol
11 assessments and for mandatory sentencing and providing for
12 substance monitoring program.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 9756 of Title 42 of the Pennsylvania
16 Consolidated Statutes is amended by adding a subsection to read:

17 § 9756. Sentence of total confinement.

18 * * *

19 (c.2) Determinate sentence.--A court may impose a
20 determinate sentence under 75 Pa.C.S. (relating to vehicles)
21 where the violation is graded as a summary offense and the
22 maximum sentence of total confinement is 90 days or less.

23 * * *

Section 2. Section 102 of Title 75 is amended by adding definitions to read:

§ 102. Definitions.

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

* * *

"Continuous alcohol monitoring device." A monitoring device or instrument that:

(1) is attached to an individual;

(2) is designed to automatically and frequently test the presence of alcohol in the individual regardless of the method by which the device or instrument is attached to the individual;

(3) detects the presence of alcohol; and

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

* * *

"Remote breath testing device." An unsupervised mobile breath testing device that:

(1) is not affixed to a motor vehicle;

(2) has the ability to confirm the identity and location of an individual; and

(3) detects the presence of alcohol.

* * *

"Substance monitoring program." The court-ordered use of or participation in any one or both of the following as a condition of bail, probation or parole consistent with section 3818

1 (relating to substance monitoring program):

2 (1) A continuous alcohol monitoring device, remote
3 breath testing device or any other alcohol monitoring
4 technology or device, as determined by the court.

5 (2) Random drug testing or any other controlled
6 substance monitoring technology or device, as determined by
7 the court.

8 * * *

9 Section 3. Sections 1543(b)(1)(i) and (ii) and (1.1)(i) and
10 1556(b)(1) and (2) of Title 75 are amended to read:

11 § 1543. Driving while operating privilege is suspended or
12 revoked.

13 * * *

14 (b) Certain offenses.--

15 (1) The following shall apply:

16 (i) A person who drives a motor vehicle on a highway
17 or trafficway of this Commonwealth at a time when the
18 person's operating privilege is suspended or revoked as a
19 condition of acceptance of Accelerated Rehabilitative
20 Disposition for a violation of section 3802 (relating to
21 driving under influence of alcohol or controlled
22 substance) or the former section 3731, because of a
23 violation of section 1547(b)(1) (relating to suspension
24 for refusal) or 3802 or former section 3731 or is
25 suspended under section 1581 (relating to Driver's
26 License Compact) for an offense substantially similar to
27 a violation of section 3802 or former section 3731 shall,
28 upon a first conviction, be guilty of a summary offense
29 and shall be sentenced to pay a fine of \$500 and to
30 undergo imprisonment for a period of [not less than] 60

1 days [nor more than 90 days].

2 (ii) A second violation of this paragraph shall
3 constitute a summary offense and, upon conviction of this
4 paragraph, a person shall be sentenced to pay a fine of
5 \$1,000 and to undergo imprisonment for [not less than] 90
6 days.

7 * * *

8 (1.1) (i) A person who has an amount of alcohol by
9 weight in his blood that is equal to or greater than .02%
10 at the time of testing or who at the time of testing has
11 in his blood any amount of a Schedule I or nonprescribed
12 Schedule II or III controlled substance, as defined in
13 the act of April 14, 1972 (P.L.233, No.64), known as The
14 Controlled Substance, Drug, Device and Cosmetic Act, or
15 its metabolite or [who refuses testing of blood or
16 breath] who refuses testing of breath under section 1547
17 (relating to chemical testing to determine amount of
18 alcohol or controlled substance) or chemical testing of
19 blood pursuant to a valid search warrant, court order or
20 any other basis permissible by the Constitution of the
21 United States and the Constitution of Pennsylvania, and
22 who drives a motor vehicle on any highway or trafficway
23 of this Commonwealth at a time when the person's
24 operating privilege is suspended or revoked as a
25 condition of acceptance of Accelerated Rehabilitative
26 Disposition for a violation of section 3802 or former
27 section 3731 or because of a violation of section 1547(b)
28 (1) or 3802 or former section 3731 or is suspended under
29 section 1581 for an offense substantially similar to a
30 violation of section 3802 or former section 3731 shall,

1 upon a first conviction, be guilty of a summary offense
2 and shall be sentenced to pay a fine of \$1,000 and to
3 undergo imprisonment for a period of [not less than] 90
4 days.

5 * * *

6 § 1556. Ignition interlock limited license.

7 * * *

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.] The petition shall include proof of financial
16 responsibility covering each vehicle the applicant requests
17 to be permitted to operate. Upon approval of the petition,
18 the ignition interlock system shall be installed in any motor
19 vehicle to be operated by the applicant, and proof of
20 installation shall be provided by the ignition interlock
21 device vendor.

22 (2) [The petition shall also include proof of financial
23 responsibility covering each vehicle the applicant requests
24 to be permitted to operate.] The department shall promulgate
25 regulations to require additional information as well as
26 additional evidence to verify the information contained in
27 the petition.

28 * * *

29 Section 4. Section 3805 of Title 75 is amended by adding a
30 subsection to read:

1 § 3805. Ignition interlock.

2 * * *

3 (h.3) Notice to department.--If a violation under subsection
4 (h.2) (1), (2) or (3) occurs in the two consecutive months prior
5 to the date entered on the certificate, the vendor shall notify
6 the department as to the violation on a form designated by the
7 department, and the department shall notify the person of the
8 violation and that ignition interlock device usage shall
9 continue until no violations have occurred within a 60-day
10 period.

11 * * *

12 Section 5. Sections 3806(b) (1), 3807(b) (4) and 3814(4) of
13 Title 75 are amended to read:

14 § 3806. Prior offenses.

15 * * *

16 (b) Timing.--

17 (1) For purposes of sections 1553(d.2) (relating to
18 occupational limited license), 1556 (relating to ignition
19 interlock limited license), 3803 (relating to grading), 3804
20 (relating to penalties) [and], 3805 (relating to ignition
21 interlock), 3815 (relating to mandatory sentencing) and 3818
22 (relating to substance monitoring program), the prior offense
23 must have occurred:

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

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

28 * * *

29 § 3807. Accelerated Rehabilitative Disposition.

30 * * *

1 (b) Evaluation and treatment.--

2 * * *

3 (4) The assessment under paragraph (2) shall consider
4 issues of public safety and shall include recommendations for
5 all of the following:

6 (i) Length of stay.

7 (ii) Levels of care.

8 (iii) Follow-up care and monitoring.

9 (iv) The use of medication-assisted treatment in
10 conjunction with behavioral therapies if the treatment is
11 clinically appropriate.

12 * * *

13 § 3814. Drug and alcohol assessments.

14 If a defendant is convicted or pleads guilty or no contest to
15 a violation of section 3802 (relating to driving under influence
16 of alcohol or controlled substance), the following apply prior
17 to sentencing:

18 * * *

19 (4) The assessment under paragraph (2) shall consider
20 issues of public safety and shall include recommendations for
21 all of the following:

22 (i) Length of stay.

23 (ii) Levels of care.

24 (iii) Follow-up care and monitoring.

25 (iv) The use of medication-assisted treatment in
26 conjunction with behavioral therapies if the treatment is
27 clinically appropriate.

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

30 § 3815. Mandatory sentencing.

1 * * *

2 (b) Parole.--

3 * * *

4 (2) The following shall be conditions of parole:

5 (i) If the offender is not determined under the
6 procedures set forth in section 3814 to be addicted to
7 alcohol or another substance, the offender must refrain
8 from:

9 (A) the use of illegal controlled substances;

10 and

11 (B) the abuse of prescription drugs, over-the-
12 counter drugs or any other substances.

13 (ii) If the offender is determined under the
14 procedures set forth in section 3814 to be addicted to
15 alcohol or another substance, the offender must do all of
16 the following:

17 (A) Refrain from:

18 (I) the use of alcohol or illegal controlled
19 substances; and

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

22 (B) Participate in and cooperate with drug and
23 alcohol addiction treatment under subsection (c).

24 (iii) In addition to any other condition or
25 restriction imposed, an individual who violates section
26 3802 and who has one or more prior offenses may be
27 ordered by the court to participate in a substance
28 monitoring program under section 3818 (relating to
29 substance monitoring program).

30 (b.1) Probation.--In addition to any other condition or

1 restriction imposed, an individual who violates section 3802 and
2 who has one or more prior offenses may be ordered by the court
3 to participate in a substance monitoring program as a condition
4 of probation under section 3818.

5 * * *

6 Section 7. Title 75 is amended by adding a section to read:
7 § 3818. Substance monitoring program.

8 (a) Evaluation required.--

9 (1) In all of the following circumstances, in addition
10 to any other condition or restriction imposed, an individual
11 shall be evaluated by a court to determine whether, at the
12 court's discretion, the individual may be ordered to
13 participate in a substance monitoring program:

14 (i) While adjudication of a violation of section
15 3802 (relating to driving under influence of alcohol or
16 controlled substance) is pending for an individual who
17 has one or more prior offenses.

18 (ii) While adjudication of two or more violations of
19 section 3802 are concurrently pending for an individual.

20 (iii) As a condition of probation or parole where
21 the individual violates section 3802 and has one or more
22 prior offenses.

23 (2) The court may use the assessment from section 3814
24 (relating to drug and alcohol assessments) to satisfy the
25 requirement under paragraph (1).

26 (b) Monitoring devices and technologies.--

27 (1) A substance monitoring program shall include a
28 requirement that the individual use or participate in one or
29 both of the following, as determined by the court:

30 (i) A continuous alcohol monitoring device, remote

1 breath testing device or any other similar alcohol
2 monitoring technology or device, other than an ignition
3 interlock system, as determined by the court.

4 (ii) Random drug testing or any other controlled
5 substance monitoring technology or device, as determined
6 by the court.

7 (2) When determining the devices or technologies to be
8 used under paragraph (1), the court shall consider:

9 (i) the individual's prior offenses;

10 (ii) the individual's most recent violation of
11 section 3802;

12 (iii) any pending adjudication of the individual for
13 a violation of section 3802;

14 (iv) in consultation with the county, the monitoring
15 devices and technologies available to or utilized by the
16 county;

17 (v) the individual's ability to pay the costs of
18 participation in the substance monitoring program,
19 including costs associated with any required device or
20 technology; and

21 (vi) any other factor deemed appropriate by the
22 court.

23 (c) Determination and costs to be paid.--If the court orders
24 an individual to participate in a substance monitoring program,
25 the individual shall pay for costs associated with the
26 individual's participation in the substance monitoring program,
27 including costs associated with any required device or
28 technology. An individual ordered to participate in a substance
29 monitoring program may not be prevented from being released on
30 bail, probation or parole solely because of the individual's

1 inability to pay the costs of the substance monitoring program.

2 (d) Prohibitions.--An individual ordered to participate in a
3 substance monitoring program is prohibited from all of the
4 following for the duration of the substance monitoring program:

5 (1) Imbibing alcohol or using controlled substances, or
6 both, as determined by the court.

7 (2) Tampering with any device or technology associated
8 with the substance monitoring program.

9 (3) Failing to comply with any other requirement ordered
10 by the court as part of the substance monitoring program.

11 (e) Construction.--Nothing in this section shall be
12 construed to prohibit a court from ordering:

13 (1) An individual pending adjudication for a single
14 violation of section 3802 with no prior offenses to
15 participate in a substance monitoring program as a condition
16 of bail.

17 (2) An individual convicted of a violation of section
18 3802 who has no prior offenses to participate in a substance
19 monitoring program as a condition of probation or parole.

20 Section 8. This act shall take effect as follows:

21 (1) The following provisions shall take effect
22 immediately:

23 (i) The addition of 42 Pa.C.S. § 9756(c.2).

24 (ii) The amendment of 75 Pa.C.S. § 1543(b)(1)(i) and
25 (ii) and (1.1)(i).

26 (iii) This section.

27 (2) The following provisions shall take effect in 60
28 days:

29 (i) The amendment of 75 Pa.C.S. § 3807(b)(4).

30 (ii) The amendment of 75 Pa.C.S. § 3814(4).

1 (3) The following provisions shall take effect in 11
2 months:
3 (i) The amendment of 75 Pa.C.S. § 1556(b)(1) and
4 (2).
5 (ii) The addition of 75 Pa.C.S. § 3805(h.3).
6 (4) The remainder of this act shall take effect in 120
7 days.