

AMENDMENTS TO HOUSE BILL NO. 163

Sponsor: REPRESENTATIVE FEE

Printer's No. 127

1 Amend Bill, page 1, lines 1 through 3, by striking out all of
2 said lines and inserting

3 Amending Titles 4 (Amusements), 18 (Crimes and Offenses), 23
4 (Domestic Relations) and 75 (Vehicles) of the Pennsylvania
5 Consolidated Statutes, further providing for suspension of
6 operating privileges of licensed drivers.

7 Amend Bill, page 1, lines 6 through 18; page 2, lines 1
8 through 18; by striking out all of said lines on said pages and
9 inserting

10 Section 1. Section 1518(b)(4) of Title 4 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 1518. Prohibited acts; penalties.

13 * * *

14 (b) Criminal penalties and fines.--

15 * * *

16 (4) An individual that commits an offense in violation
17 of subsection (a)(16) commits a nongambling offense to be
18 graded in accordance with 18 Pa.C.S. § 6308~~4~~ and [shall be
19 subject to the same penalties imposed pursuant to 18 Pa.C.S.
20 § 6308 and 6310.4 (relating to restriction of operating
21 privileges) except that] the fine imposed for a violation of
22 subsection (a)(16) shall be not less than \$350 nor more than
23 \$1,000.

24 * * *

25 Section 2. Sections 6305(b)(3), 6307(b), 6308(b) and
26 6310.3(b) of Title 18 are amended to read:

27 § 6305. Sale of tobacco.

28 * * *

29 (b) Penalty.--

30 * * *

31 (3) A minor who violates subsection (a.1) shall be
32 sentenced to any or all of the following:

33 (i) not more than 75 hours of community service;

34 (ii) complete a tobacco use prevention and cessation
35 program approved by the Department of Health; or

1 (iii) a fine not to exceed \$200[; or
 2 (iv) a 30-day suspension of motor vehicle operating
 3 privileges].
 4 * * *
 5 § 6307. Misrepresentation of age to secure liquor or malt or
 6 brewed beverages.
 7 * * *
 8 (b) Minimum penalty.--[In addition to any other penalty
 9 imposed pursuant to section 6310.4 (relating to restriction of
 10 operating privileges) or this title or other statute, a] A
 11 person who is convicted of violating subsection (a) may be
 12 sentenced to pay a fine of not more than \$500 for subsequent
 13 violations. No court shall have the authority to suspend any
 14 sentence as defined in this section.
 15 * * *
 16 § 6308. Purchase, consumption, possession or transportation of
 17 liquor or malt or brewed beverages.
 18 * * *
 19 (b) Penalty.--[In addition to the penalty imposed pursuant
 20 to section 6310.4 (relating to restriction of operating
 21 privileges), a] A person convicted of violating subsection (a)
 22 may be sentenced to pay a fine of not more than \$500 for the
 23 first violation and not more than \$1,000 for the second and each
 24 subsequent violation.
 25 * * *
 26 § 6310.3. Carrying a false identification card.
 27 * * *
 28 (b) Minimum penalty.--[In addition to any other penalty
 29 imposed pursuant to section 6310.4 (relating to restriction of
 30 operating privileges) or any other statute, a] A person who is
 31 convicted of violating subsection (a) shall be sentenced to pay
 32 a fine of not more than \$500 for the second and subsequent
 33 violations. No court shall have the authority to suspend any
 34 sentence as defined in this section.
 35 * * *
 36 Section 3. Section 6310.4 of Title 18 is repealed:
 37 [§ 6310.4. Restriction of operating privileges.
 38 (a) General rule.--Whenever a person is convicted or is
 39 adjudicated delinquent or is admitted to any preadjudication
 40 program for a violation of section 6307 (relating to
 41 misrepresentation of age to secure liquor or malt or brewed
 42 beverages), 6308 (relating to purchase, consumption, possession
 43 or transportation of liquor or malt or brewed beverages) or
 44 6310.3 (relating to carrying a false identification card), the
 45 court, including a court not of record if it is exercising
 46 jurisdiction pursuant to 42 Pa.C.S. § 1515(a) (relating to
 47 jurisdiction and venue), shall order the operating privilege of
 48 the person suspended. A copy of the order shall be transmitted
 49 to the Department of Transportation.
 50 (b) Duration of suspension.--When the department suspends
 51 the operating privilege of a person under subsection (a), the

1 duration of the suspension shall be as follows:

2 (1) For a first offense, a period of 90 days from the
3 date of suspension.

4 (2) For a second offense, a period of one year from the
5 date of suspension.

6 (3) For a third offense, and any offense thereafter, a
7 period of two years from the date of suspension. Any multiple
8 sentences imposed shall be served consecutively.

9 Reinstatement of operating privilege shall be governed by 75
10 Pa.C.S. § 1545 (relating to restoration of operating privilege).

11 (c) Nondrivers.--Any person whose record is received by the
12 department under subsection (a) and who does not have a driver's
13 license shall be ineligible to apply for a learner's permit
14 under 75 Pa.C.S. §§ 1505 (relating to learners' permits) and
15 1507 (relating to application for driver's license or learner's
16 permit by minor) for the time periods specified in subsection
17 (b). If the person is under 16 years of age when he is convicted
18 or adjudicated delinquent or admitted to a preadjudication
19 program, his suspension of operating privileges shall commence
20 upon his 16th birthday for the time periods specified in
21 subsection (b).

22 (d) Insurance premiums.--An insurer shall not increase
23 premiums, impose any surcharge or rate penalty, or make any
24 driver record point assignment for automobile insurance, nor
25 shall an insurer cancel or refuse to renew an automobile
26 insurance policy on account of a suspension under this section.]

27 Section 4. Section 4355(a), (d.1), (d.6) and (e) of Title 23
28 are amended to read:

29 § 4355. Denial or suspension of licenses.

30 (a) General rule.--[Except as provided in subsection (d.1),
31 where] Where the domestic relations section or the department
32 has been unable to attach the income of an obligor and the
33 obligor owes support in an amount equal to or greater than three
34 months of the monthly support obligation or where an individual
35 has failed to comply with a visitation or partial custody order
36 pursuant to section 4346 (relating to contempt for noncompliance
37 with visitation or partial custody order) or an individual has
38 failed, after appropriate notice, to comply with subpoenas or
39 warrants relating to paternity or child support proceedings, the
40 court, the domestic relations section or the department shall
41 issue an order directing any licensing authority to:

42 (1) prohibit the issuance or renewal of a license of the
43 obligor or other individual; or

44 (2) require the suspension of the license of the obligor
45 or other individual.

46 * * *

47 [(d.1) Special procedures for operating privilege.--

48 (1) Where the domestic relations section or the
49 department has been unable to attach the income of an obligor
50 and the obligor owes support in an amount equal to or greater
51 than three months of the monthly support obligation or where

1 an individual has failed, after appropriate notice, to comply
2 with subpoenas or warrants relating to paternity or child
3 support proceedings, the court, the domestic relations
4 section or the department may issue an order directing the
5 Department of Transportation to:

6 (i) prohibit the issuance or renewal of a license of
7 the obligor or other individual; or

8 (ii) require the suspension of the license of the
9 obligor or other individual.

10 (2) Prior to the issuance of an order to suspend,
11 nonrenew or deny a license, the obligor or other individual
12 shall be given advance notice. The notice shall specify:

13 (i) The amount of arrears owed, if applicable.

14 (ii) How, when and where the notice can be
15 contested.

16 (iii) That the grounds for contesting the notice
17 shall be limited to mistakes of fact. Mistakes of fact
18 shall be limited to errors in the amount of arrears owed
19 or mistaken identity of the obligor.

20 (iv) That an order to the Department of
21 Transportation to automatically suspend, nonrenew or deny
22 the license will occur in all cases 30 days after
23 issuance of the notice unless the arrearage is paid, a
24 periodic payment schedule is approved by the court or the
25 individual is excused from the failure to comply with the
26 warrant or subpoena.

27 (3) Any order issued to the Department of Transportation
28 pursuant to this section shall be issued as agreed upon by
29 the department and the Department of Transportation. The
30 order may be transmitted electronically or by other methods.

31 (4) Upon receipt of an order or directive from a court,
32 the domestic relations section or the department authorizing
33 the Department of Transportation to suspend the operating
34 privilege of an obligor or other individual, the Department
35 of Transportation shall immediately suspend the operating
36 privilege of that obligor or other individual. Upon receipt
37 of an order from the court or the domestic relations section
38 or a directive from the department authorizing the Department
39 of Transportation to restore the operating privilege of an
40 obligor or other individual, the Department of Transportation
41 shall immediately restore the operating privilege of that
42 obligor or other individual if the person complies with the
43 provisions of 75 Pa.C.S. § 1960 (relating to reinstatement of
44 operating privilege or vehicle registration).

45 (5) An insurer may not increase premiums, impose a
46 surcharge or rate penalty, make a driver record point
47 assignment for automobile insurance or cancel or refuse to
48 renew an automobile insurance policy on account of a
49 suspension under this section.

50 (6) There shall be no right to appeal from a suspension
51 under this section pursuant to 75 Pa.C.S. § 1550 (relating to

judicial review). Subject to section 4377(c) (relating to power to expedite support cases), the sole remedy shall be to petition the court which entered the underlying support order resulting in the suspension, revocation or refusal to issue or renew the license.]

* * *

(d.6) Immunity.--The court, the domestic relations section, the Department of [Public Welfare, the Department of Transportation] Human Services, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission or any employee of any of these entities or any person appointed by the Pennsylvania Game Commission or the Pennsylvania Fish and Boat Commission to issue licenses and permits pursuant to the applicable provisions of 30 Pa.C.S. (relating to fish) and 34 Pa.C.S. (relating to game) shall not be subject to civil or criminal liability for carrying out their duties under this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"License." A license, certificate, permit or other authorization to[:

(1)] engage in a profession, trade or business in this Commonwealth or a political subdivision or agency thereof[; or

(2) operate a motor vehicle for personal or commercial purposes].

"Licensing authority." Any entity of the Commonwealth, political subdivision or agency thereof which issues a license.

["Operating privilege." The privilege to apply for and obtain a license to use as well as the privilege to use a vehicle on a highway as authorized under Title 75 (relating to vehicles).]

"Recreational license." A hunting or fishing license.

Section 5. Section 1532(c) of Title 75 is amended to read: § 1532. Suspension of operating privilege.

* * *

(c) Suspension.--The department shall suspend the operating privilege of [any person upon receiving a certified record of the person's conviction of any offense involving the possession, sale, delivery, offering for sale, holding for sale or giving away of any controlled substance under the laws of the United States, this Commonwealth or any other state, or] any person 21 years of age or younger upon receiving a certified record of the person's conviction or adjudication of delinquency under 18 Pa.C.S. § 2706 (relating to terroristic threats) committed on any school property, including any public school grounds, during any school-sponsored activity or on any conveyance providing transportation to a school entity or school-sponsored activity[.] in accordance with the following:

(1) The period of suspension shall be as follows:

1 (i) For a first offense, a period of six months from
2 the date of the suspension.

3 (ii) For a second offense, a period of one year from
4 the date of the suspension.

5 (iii) For a third and any subsequent offense
6 thereafter, a period of two years from the date of the
7 suspension.

8 (2) For the purposes of this subsection, the term
9 "conviction" shall include any conviction or adjudication of
10 delinquency for any of the offenses listed in paragraph (1),
11 whether in this Commonwealth or any other Federal or state
12 court.

13 * * *

14 Section 6. This act shall take effect in 60 days.