

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 133 Session of
2003

INTRODUCED BY ORIE, RHOADES, COSTA, LAVALLE, DENT AND LOGAN,
FEBRUARY 10, 2003

REFERRED TO JUDICIARY, FEBRUARY 10, 2003

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for definitions, for revocation
3 of habitual offenders' licenses and for requirements for
4 driving under influence offenders; providing for violations
5 of ignition interlock system provisions; further providing
6 for occupational limited license and for penalties for
7 driving under the influence of alcohol or controlled
8 substances; and making repeals.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

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

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

19 * * *

20 "Ignition interlock system." A system approved by the

1 department that prevents a vehicle from being started or
2 operated unless the operator first provides a breath sample
3 indicating that the operator has an alcohol level of less than
4 .025%.

5 * * *

6 Section 2. Section 1542(a), (d) and (e) of Title 75 are
7 amended to read:

8 § 1542. Revocation of habitual offender's license.

9 (a) General rule.--The department shall revoke the operating
10 privilege of any person found to be a habitual offender pursuant
11 to the provisions of this section. A "habitual offender" shall
12 be any person whose driving record, as maintained in the
13 department, shows that such person has accumulated the requisite
14 number of convictions for the separate and distinct offenses
15 described and enumerated in subsection (b) committed after the
16 effective date of this title and within any period of [five]
17 seven years thereafter.

18 * * *

19 (d) Period of revocation.--[The]

20 (1) Except as otherwise provided in paragraph (2), the
21 operating privilege of any person found to be a habitual
22 offender under the provisions of this section shall be
23 revoked by the department for a period of five years.

24 (2) If a person is found to be a habitual offender under
25 this section and the three convictions are for offenses under
26 section 3731 (relating to driving under influence of alcohol
27 or controlled substance) or one of the three convictions is
28 for an offense under section 3735 (relating to homicide by
29 vehicle while driving under influence) or 3735.1 (relating to
30 aggravated assault by vehicle while driving under the

1 influence), the operating privilege of the person shall be
2 revoked by the department for ten years.

3 (e) Additional offenses.--Each additional offense committed
4 within a period of [five] seven years, as measured from the date
5 of any previous offense, shall result in a revocation for an
6 additional period of two years.

7 Section 3. Section 1548 of Title 75 is amended by adding a
8 subsection to read:

9 § 1548. Requirements for driving under influence offenders.

10 * * *

11 (g) Ignition interlock system.--

12 (1) Where a person's operating privileges are suspended
13 for a second or subsequent violation of section 3731 or a
14 similar out-of-State offense and the person seeks a
15 restoration of operating privileges, the ignition interlock
16 provider shall certify to the department that each currently
17 registered motor vehicle owned or leased by the person has
18 been equipped with an approved ignition interlock system.

19 (2) A person seeking restoration of operating privileges
20 shall apply to the department for an ignition interlock
21 restricted license under section 1951(d) (relating to
22 driver's license and learner's permit) which will be clearly
23 marked to restrict the person to operating only motor
24 vehicles equipped with an approved ignition interlock system.

25 (3) During the year immediately following the
26 restoration of the person's operating privilege and
27 thereafter until the person obtains an unrestricted license,
28 the person shall not operate any motor vehicle on a highway
29 within this Commonwealth unless the motor vehicle is equipped
30 with an approved ignition interlock system.

1 (4) Except as provided in paragraph (5), a person may
2 apply for an additional replacement license under section
3 1951(d) that does not contain the ignition interlock system
4 restriction one year from the date of issuance of an ignition
5 interlock restricted license under this section, if otherwise
6 eligible.

7 (5) A person whose operating privilege is suspended for
8 a second or subsequent violation of section 3731 or a similar
9 out-of-State offense who does not apply for an ignition
10 interlock restricted license shall not be eligible to apply
11 for the restoration of operating privileges for an additional
12 year after otherwise being eligible for restoration under
13 paragraph (1).

14 (6) The department shall be immediately notified of any
15 removal of an ignition interlock system required under this
16 subsection. Upon notification, the department shall reinstate
17 the suspension or revocation for a period of an additional
18 year.

19 (7) Whenever an ignition interlock system has been
20 installed or has been certified as installed under this
21 subsection, the ignition interlock system shall remain
22 installed on the vehicle for the entire period the ignition
23 interlock system is required to be installed.

24 Section 4. Title 75 is amended by adding a section to read:

25 § 1548.1. Violation of ignition interlock system provisions.

26 (a) Operation without interlock system.--A person required
27 to operate only motor vehicles equipped with an approved
28 ignition interlock system who operates a motor vehicle on the
29 highways of this Commonwealth without an approved ignition
30 interlock system commits a felony of the third degree.

1 (b) Tampering with ignition interlock system.--A person who
2 tampers with an ignition interlock system required by law
3 commits a misdemeanor of the first degree.

4 (c) Suspension or revocation.--Upon receiving a certified
5 record of conviction of any person under paragraph (a) or (b),
6 the department shall suspend or revoke the person's operating
7 privilege for a period of one year.

8 Section 5. Section 1553(d) of Title 75 is amended by adding
9 a paragraph to read:

10 § 1553. Occupational limited license.

11 * * *

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

14 * * *

15 (19) Any person who has had the suspension of an
16 operating privilege reinstated under the provisions of
17 section 1548.1 (relating to violation of ignition interlock
18 system provisions).

19 * * *

20 Section 6. Section 3731(e)(1) of Title 75 is amended and the
21 subsection is amended by adding a paragraph to read:

22 § 3731. Driving under influence of alcohol or controlled
23 substance.

24 * * *

25 (e) Penalty.--

26 (1) Any person violating any of the provisions of this
27 section [is guilty of] commits a misdemeanor of the second
28 degree, except that a person convicted of a third [or
29 subsequent] offense [is guilty of a misdemeanor] commits a
30 misdemeanor of the first degree [, and the]. Any person

1 convicted of a fourth or subsequent offense or any person who
2 has previously been convicted of an offense under section
3 3735 (relating to homicide by vehicle while driving under
4 influence) or 3735.1 (relating to aggravated assault by
5 vehicle while driving under the influence) regardless of the
6 number of prior convictions under this section within the
7 previous seven years commits a felony of the third degree.

8 The sentencing court shall order the person to pay a fine of
9 not less than \$300 and serve a minimum term of imprisonment
10 of:

11 (i) Not less than 48 consecutive hours.

12 (ii) Not less than 30 days if the person has
13 previously accepted Accelerated Rehabilitative
14 Disposition or any other form of preliminary disposition,
15 been convicted of, adjudicated delinquent or granted a
16 consent decree under the Juvenile Act (42 Pa.C.S. § 6301
17 et seq.) based on an offense under this section or of an
18 equivalent offense in this or other jurisdictions within
19 the previous seven years.

20 (iii) Not less than 90 days if the person has twice
21 previously been convicted of, adjudicated delinquent or
22 granted a consent decree under the Juvenile Act based on
23 an offense under this section or of an equivalent offense
24 in this or other jurisdictions within the previous seven
25 years.

26 (iv) Not less than one year if the person has three
27 times previously been convicted of, adjudicated
28 delinquent or granted a consent decree under the Juvenile
29 Act based on an offense under this section or of an
30 equivalent offense in this or other jurisdictions or if

1 the person has previously been convicted of an offense
2 under section 3735 or 3735.1 within the previous seven
3 years.

4 * * *

5 (10) The following shall apply:

6 (i) In addition to any other requirements imposed by
7 the court, where a person has been convicted for a first
8 offense under this section, the court may order the
9 installation of an approved ignition interlock system on
10 each currently registered motor vehicle owned or leased
11 by the person to be effective upon the restoration of
12 operating privileges by the department. A record shall be
13 submitted to the department when the court has ordered
14 the installation of an approved ignition interlock
15 device. Before the department may restore the person's
16 operating privilege, the department must receive a
17 certification from the ignition interlock provider that
18 the ignition interlock system has been installed.

19 (ii) Any person convicted of a second or subsequent
20 violation of this section or a similar out-of-State
21 offense shall be required to have an approved ignition
22 interlock system installed on each currently registered
23 motor vehicle owned or leased by the person to be
24 effective upon the restoration of operating privileges by
25 the department. Before the department may restore the
26 person's operating privilege, the department must receive
27 certification from the ignition interlock provider that
28 the ignition interlock system has been installed.

29 (iii) For the purposes of this section, acceptance
30 of Accelerated Rehabilitative Disposition, an

1 adjudication of delinquency or a consent decree upon 42
2 Pa.C.S Ch. 63 (relating to juvenile matters) or any other
3 form of preliminary disposition of any charge brought
4 under this section shall be considered a first
5 conviction.

6 (iv) An ignition interlock system required to be
7 installed under this section must be a system which has
8 been approved by the department. The department's
9 approval of ignition interlock systems shall be published
10 in the Pennsylvania Bulletin.

11 (v) An ignition interlock service provider shall
12 provide reports to the department and the court, if
13 requested, for each ignition interlock system.

14 (vi) The department shall develop training programs
15 for law enforcement, court officials and probation and
16 parole offices on ignition interlock systems including
17 the proper use, identification, technology and
18 limitations of an ignition interlock system.

19 * * *

20 Section 7. Sections 3735(a) and 3735.1(a) of Title 75 are
21 amended to read:

22 § 3735. Homicide by vehicle while driving under influence.

23 (a) Offense defined.--

24 (1) Any person who unintentionally causes the death of
25 another person as the result of a violation of section 3731
26 (relating to driving under influence of alcohol or controlled
27 substance) and who is convicted of violating section 3731 [is
28 guilty of] commits a felony of the second degree when the
29 violation is the cause of death and the sentencing court
30 shall order the person to serve a minimum term of

1 imprisonment of not less than three years. A consecutive
2 three-year term of imprisonment shall be imposed for each
3 victim whose death is the result of the violation of section
4 3731.

5 (2) Any person who commits an offense under paragraph
6 (1) and who has been convicted of an offense under section
7 3731 two times within the previous seven years commits a
8 felony of the first degree.

9 * * *

10 § 3735.1. Aggravated assault by vehicle while driving under the
11 influence.

12 (a) Offense defined.--

13 (1) Any person who negligently causes serious bodily
14 injury to another person as the result of a violation of
15 section 3731 (relating to driving under influence of alcohol
16 or controlled substance) and who is convicted of violating
17 section 3731 commits a felony of the second degree when the
18 violation is the cause of the injury.

19 (2) Any person who commits an offense under paragraph
20 (1) and who has been convicted of an offense under section
21 3731 two times within the previous seven years commits a
22 felony of the first degree.

23 * * *

24 Section 8. The following acts and parts of acts are
25 repealed:

26 18 Pa.C.S. § 7514.

27 42 Pa.C.S. Ch. 70.

28 Section 9. The addition of 75 Pa.C.S. § 3731(e)(10) shall be
29 deemed a continuation of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.

30 70:

1 (1) The repeal of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.
2 70 shall have no effect on the legality of actions committed
3 prior to the effective date of the repeal of 18 Pa.C.S. §
4 7514 and 42 Pa.C.S. Ch. 70.

5 (2) A prosecution for violation of 18 Pa.C.S. § 7514
6 which occurred prior to the effective date of the repeal of
7 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70 may proceed
8 notwithstanding the repeal.

9 (3) Actions committed on or after the effective date of
10 the addition of 75 Pa.C.S. § 3731(e)(10) shall be subject to
11 75 Pa.C.S. § 3731(e)(10).

12 Section 10. This act shall take effect immediately.