

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 133 Session of
2003INTRODUCED BY ORIE, RHOADES, COSTA, LAVALLE, DENT AND LOGAN,
FEBRUARY 10, 2003SENATOR THOMPSON, APPROPRIATIONS, RE-REPORTED AS AMENDED,
MAY 5, 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 WHO IS SUBJECT TO AN IGNITION INTERLOCK SYSTEM ORDER PURSUANT <—
21 TO SECTION 3731(E)(10) shall apply to the department for an
22 ignition interlock restricted license under section 1951(d)
23 (relating to driver's license and learner's permit) which
24 will be clearly marked to restrict the person to operating
25 only motor vehicles equipped with an approved ignition
26 interlock system.

27 (3) During the year immediately following the
28 restoration of the person's operating privilege and
29 thereafter until the person obtains an unrestricted license,
30 the person shall not operate any motor vehicle on a highway

1 within this Commonwealth unless the motor vehicle is equipped
2 with an approved ignition interlock system.

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

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

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

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

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

27 § 1548.1. Violation of ignition interlock system provisions.

28 (a) Operation without interlock system.--A person required
29 to operate only motor vehicles equipped with an approved
30 ignition interlock system who operates a motor vehicle on the

1 highways of this Commonwealth without an approved ignition
2 interlock system commits a felony of the third degree.

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

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

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

12 § 1553. Occupational limited license.

13 * * *

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

16 * * *

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

21 * * *

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

24 § 3731. Driving under influence of alcohol or controlled
25 substance.

26 * * *

27 (e) Penalty.--

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

subsequent] offense [is guilty of a misdemeanor] commits a
misdemeanor of the first degree [, and the]. Any person
convicted of a fourth or subsequent offense or any person who
has previously been convicted of an offense under section
3735 (relating to homicide by vehicle while driving under
influence) or 3735.1 (relating to aggravated assault by
vehicle while driving under the influence) regardless of the
number of prior convictions under this section within the
previous seven years commits a felony of the third degree.
The sentencing court shall order the person to pay a fine of
not less than \$300 and serve a minimum term of imprisonment
of:

(i) Not less than 48 consecutive hours.

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

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

(iv) Not less than one year if the person has three
times previously been convicted of, adjudicated
delinquent or granted a consent decree under the Juvenile

1 Act based on an offense under this section or of an
2 equivalent offense in this or other jurisdictions or if
3 the person has previously been convicted of an offense
4 under section 3735 or 3735.1 within the previous seven
5 years.

6 * * *

7 (10) The following shall apply:

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

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

1 (iii) For the purposes of this section, acceptance
2 of Accelerated Rehabilitative Disposition, an
3 adjudication of delinquency or a consent decree upon 42
4 Pa.C.S Ch. 63 (relating to juvenile matters) or any other
5 form of preliminary disposition of any charge brought
6 under this section shall be considered a first
7 conviction.

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

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

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

21 * * *

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

24 § 3735. Homicide by vehicle while driving under influence.

25 (a) Offense defined.--

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

violation is the cause of death and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than three years. A consecutive three-year term of imprisonment shall be imposed for each victim whose death is the result of the violation of section 3731.

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

* * *

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

(a) Offense defined.--

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

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

* * *

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

18 Pa.C.S. § 7514.

42 Pa.C.S. Ch. 70.

Section 9. The addition of 75 Pa.C.S. § 3731(e)(10) shall be

1 deemed a continuation of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.
2 70:

3 (1) The repeal of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.
4 70 shall have no effect on the legality of actions committed
5 prior to the effective date of the repeal of 18 Pa.C.S. §
6 7514 and 42 Pa.C.S. Ch. 70.

7 (2) A prosecution for violation of 18 Pa.C.S. § 7514
8 which occurred prior to the effective date of the repeal of
9 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70 may proceed
10 notwithstanding the repeal.

11 (3) Actions committed on or after the effective date of
12 the addition of 75 Pa.C.S. § 3731(e)(10) shall be subject to
13 75 Pa.C.S. § 3731(e)(10).

14 Section 10. This act shall take effect immediately.