

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 133 Session of
2003INTRODUCED BY ORIE, RHOADES, COSTA, LAVALLE, DENT AND LOGAN,
FEBRUARY 10, 2003

AS AMENDED ON THIRD CONSIDERATION, JUNE 2, 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

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

(b) Excess blood alcohol level.--A person required to operate only motor vehicles equipped with an approved ignition interlock system who, while operating the vehicle, provides a breath sample to the ignition interlock system indicating that he has an alcohol level of 0.025% or more shall be ineligible to apply for an unrestricted license for a period of one year beginning on the date that the breath sample was provided to the ignition interlock system.

(c) Bypassing an ignition interlock system.--The following shall apply:

(1) A person required to operate only motor vehicles equipped with an approved ignition interlock system who attempts to or operates a motor vehicle by using another person to provide a breath sample to the ignition interlock system commits a misdemeanor of the third degree.

(2) A person who provides a breath sample to an ignition interlock system under paragraph (1) commits a summary offense.

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

(e) Suspension or revocation.--Upon receiving a certified record of conviction of any person under ~~paragraph~~ SUBSECTION (a), (c) or (d), the department shall suspend or revoke the person's operating privilege for a period of one year.

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

§ 1553. Occupational limited license.

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1 * * *

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

4 * * *

5 (19) Any person who has had the suspension of an
6 operating privilege reinstated under the provisions of
7 section 1548.1 (relating to violation of ignition interlock
8 system provisions).

9 * * *

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

12 § 3731. Driving under influence of alcohol or controlled
13 substance.

14 * * *

15 (e) Penalty.--

16 (1) Any person violating any of the provisions of this
17 section [is guilty of] commits a misdemeanor of the second
18 degree, except that a person convicted of a third [or
19 subsequent] offense [is guilty of a misdemeanor] commits a
20 misdemeanor of the first degree [, and the]. Any person
21 convicted of a fourth or subsequent offense or any person who
22 has previously been convicted of an offense under section
23 3735 (relating to homicide by vehicle while driving under
24 influence) or 3735.1 (relating to aggravated assault by
25 vehicle while driving under the influence) regardless of the
26 number of prior convictions under this section within the
27 previous seven years commits a felony of the third degree.
28 The sentencing court shall order the person to pay a fine of
29 not less than \$300 and serve a minimum term of imprisonment
30 of:

1 (i) Not less than 48 consecutive hours.

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

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

16 (iv) Not less than one year if the person has three
17 times previously been convicted of, adjudicated
18 delinquent or granted a consent decree under the Juvenile
19 Act based on an offense under this section or of an
20 equivalent offense in this or other jurisdictions or if
21 the person has previously been convicted of an offense
22 under section 3735 or 3735.1 within the previous seven
23 years.

24 * * *

25 (10) The following shall apply:

26 (i) In addition to any other requirements imposed by
27 the court, where a person has been convicted for a first
28 offense under this section, the court may order the
29 installation of an approved ignition interlock system on
30 each currently registered motor vehicle owned or leased

1 by the person to be effective upon the restoration of
2 operating privileges by the department. A record shall be
3 submitted to the department when the court has ordered
4 the installation of an approved ignition interlock
5 device. Before the department may restore the person's
6 operating privilege, the department must receive a
7 certification from the ignition interlock provider that
8 the ignition interlock system has been installed.

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

23 (iii) For the purposes of this section, acceptance
24 of Accelerated Rehabilitative Disposition, an
25 adjudication of delinquency or a consent decree upon 42
26 Pa.C.S Ch. 63 (relating to juvenile matters) or any other
27 form of preliminary disposition of any charge brought
28 under this section shall be considered a first
29 conviction.

30 (iv) An ignition interlock system required to be

1 installed under this section must be a system which has
2 been approved by the department. The department's
3 approval of ignition interlock systems shall be published
4 in the Pennsylvania Bulletin.

5 (v) An ignition interlock service provider shall
6 provide reports to the department and the court, if
7 requested, for each ignition interlock system.

8 (vi) The department shall develop training programs
9 for law enforcement, court officials and probation and
10 parole offices on ignition interlock systems including
11 the proper use, identification, technology and
12 limitations of an ignition interlock system.

13 * * *

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

16 § 3735. Homicide by vehicle while driving under influence.

17 (a) Offense defined.--

18 (1) Any person who unintentionally causes the death of
19 another person as the result of a violation of section 3731
20 (relating to driving under influence of alcohol or controlled
21 substance) and who is convicted of violating section 3731 [is
22 guilty of] commits a felony of the second degree when the
23 violation is the cause of death and the sentencing court
24 shall order the person to serve a minimum term of
25 imprisonment of not less than three years. A consecutive
26 three-year term of imprisonment shall be imposed for each
27 victim whose death is the result of the violation of section
28 3731.

29 (2) Any person who commits an offense under paragraph
30 (1) and who has been convicted of an offense under section

1 3731 two times within the previous seven years commits a
2 felony of the first degree.

3 * * *

4 § 3735.1. Aggravated assault by vehicle while driving under the
5 influence.

6 (a) Offense defined.--

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

13 (2) Any person who commits an offense under paragraph
14 (1) and who has been convicted of an offense under section
15 3731 two times within the previous seven years commits a
16 felony of the first degree.

17 * * *

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

20 18 Pa.C.S. § 7514.

21 42 Pa.C.S. Ch. 70.

22 Section 9. The addition of 75 Pa.C.S. § 3731(e)(10) shall be
23 deemed a continuation of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.
24 70:

25 (1) The repeal of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.
26 70 shall have no effect on the legality of actions committed
27 prior to the effective date of the repeal of 18 Pa.C.S. §
28 7514 and 42 Pa.C.S. Ch. 70.

29 (2) A prosecution for violation of 18 Pa.C.S. § 7514
30 which occurred prior to the effective date of the repeal of

1 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch. 70 may proceed
2 notwithstanding the repeal.

3 (3) Actions committed on or after the effective date of
4 the addition of 75 Pa.C.S. § 3731(e)(10) shall be subject to
5 75 Pa.C.S. § 3731(e)(10).

6 Section 10. This act shall take effect immediately.