

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 133 Session of
2003

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

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 15, 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. CHEMICAL TESTING TO DETERMINE <—
9 AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE AND FOR ABANDONMENT
10 OF VEHICLES.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. Section 102 of Title 75 of the Pennsylvania~~ <—
14 ~~Consolidated Statutes is amended by adding a definition to read:~~
15 ~~§ 102. Definitions.~~

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

1 * * *

2 ~~"Ignition interlock system." A system approved by the~~
3 ~~department that prevents a vehicle from being started or~~
4 ~~operated unless the operator first provides a breath sample~~
5 ~~indicating that the operator has an alcohol level of less than~~
6 ~~.025%.~~

7 * * *

8 ~~Section 2. Section 1542(a), (d) and (e) of Title 75 are~~
9 ~~amended to read:~~

10 ~~§ 1542. Revocation of habitual offender's license.~~

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

20 * * *

21 ~~(d) Period of revocation. [The]~~

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

26 ~~(2) If a person is found to be a habitual offender under~~
27 ~~this section and the three convictions are for offenses under~~
28 ~~section 3731 (relating to driving under influence of alcohol~~
29 ~~or controlled substance) or one of the three convictions is~~
30 ~~for 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), the operating privilege of the person shall be revoked by the department for ten years.~~

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

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

~~§ 1548. Requirements for driving under influence offenders.~~

~~* * *~~

~~(g) Ignition interlock system.~~

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

~~(2) A person seeking restoration of operating privileges who is subject to an ignition interlock system order pursuant to section 3731(c)(10) shall apply to the department for an ignition interlock restricted license under section 1951(d) (relating to driver's license and learner's permit) which will be clearly marked to restrict the person to operating only motor vehicles equipped with an approved ignition interlock system.~~

~~(3) During the year immediately following the restoration of the person's operating privilege and~~

1 ~~thereafter until the person obtains an unrestricted license,~~
2 ~~the person shall not operate any motor vehicle on a highway~~
3 ~~within this Commonwealth unless the motor vehicle is equipped~~
4 ~~with an approved ignition interlock system.~~

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

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

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

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

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

29 ~~§ 1548.1. Violation of ignition interlock system provisions.~~

30 ~~(a) Operation without interlock system. A person required~~

~~to operate only motor vehicles equipped with an approved 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 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~~

1 ~~a paragraph to read:~~

2 ~~§ 1553. Occupational limited license.~~

3 ~~* * *~~

4 ~~(d) Unauthorized issuance. The department shall prohibit~~
5 ~~issuance of an occupational limited license to:~~

6 ~~* * *~~

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

11 ~~* * *~~

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

14 ~~§ 3731. Driving under influence of alcohol or controlled~~
15 ~~substance.~~

16 ~~* * *~~

17 ~~(e) Penalty.—~~

18 ~~(1) Any person violating any of the provisions of this~~
19 ~~section [is guilty of] commits a misdemeanor of the second~~
20 ~~degree, except that a person convicted of a third [or~~
21 ~~subsequent] offense [is guilty of a misdemeanor] commits a~~
22 ~~misdemeanor of the first degree [, and the]. Any person~~
23 ~~convicted of a fourth or subsequent offense or any person who~~
24 ~~has previously been convicted of an offense under section~~
25 ~~3735 (relating to homicide by vehicle while driving under~~
26 ~~influence) or 3735.1 (relating to aggravated assault by~~
27 ~~vehicle while driving under the influence) regardless of the~~
28 ~~number of prior convictions under this section within the~~
29 ~~previous seven years commits a felony of the third degree.~~
30 ~~The sentencing court shall order the person to pay a fine of~~

1 ~~not less than \$300 and serve a minimum term of imprisonment~~
2 ~~of:~~

3 ~~(i) Not less than 48 consecutive hours.~~

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

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

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

26 ~~* * *~~

27 ~~(10) The following shall apply:~~

28 ~~(i) In addition to any other requirements imposed by~~
29 ~~the court, where a person has been convicted for a first~~
30 ~~offense under this section, the court may order the~~

~~installation of an approved ignition interlock system on each currently registered motor vehicle owned or leased by the person to be effective upon the restoration of operating privileges by the department. A record shall be submitted to the department when the court has ordered the installation of an approved ignition interlock device. Before the department may restore the person's operating privilege, the department must receive a certification from the ignition interlock provider that the ignition interlock system has been installed.~~

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

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

~~conviction.~~

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

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

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

~~* * *~~

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

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

~~(a) Offense defined.—~~

~~(1) Any person who unintentionally causes the death of 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 [is 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(c)(10) shall be
deemed a continuation of 18 Pa.C.S. § 7514 and 42 Pa.C.S. Ch.
70:~~

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

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

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

~~Section 10. This act shall take effect immediately.~~

SECTION 1. SECTION 1547(B)(2) OF TITLE 75 OF THE
PENNSYLVANIA CONSOLIDATED STATUTES, AMENDED SEPTEMBER 30, 2003
(P.L.120, NO.24), IS AMENDED TO READ:

§ 1547. CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR
CONTROLLED SUBSTANCE.

* * *

(B) SUSPENSION FOR REFUSAL.--

* * *

(2) IT SHALL BE THE DUTY OF THE POLICE OFFICER TO INFORM
THE PERSON THAT:

(I) THE PERSON'S OPERATING PRIVILEGE WILL BE
SUSPENDED UPON REFUSAL TO SUBMIT TO CHEMICAL TESTING; AND

(II) IF THE PERSON REFUSES TO SUBMIT TO CHEMICAL
TESTING, UPON CONVICTION, PLEA OR ADJUDICATION OF
DELINQUENCY FOR VIOLATING SECTION 3802(A)(1), THE PERSON
WILL BE SUBJECT TO THE PENALTIES PROVIDED IN SECTION
3804(C) (RELATING TO PENALTIES).

* * *

SECTION 2. SECTION 3712 OF TITLE 75 IS AMENDED TO READ:
§ 3712. ABANDONMENT OF VEHICLES.

(A) ABANDONMENT ON HIGHWAY.--NO PERSON SHALL ABANDON A
VEHICLE UPON ANY HIGHWAY.

1 (B) ABANDONMENT ON PUBLIC OR PRIVATE PROPERTY.--NO PERSON
2 SHALL ABANDON A VEHICLE UPON ANY PUBLIC OR PRIVATE PROPERTY
3 WITHOUT THE EXPRESS OR IMPLIED CONSENT OF THE OWNER OR PERSON IN
4 LAWFUL POSSESSION OR CONTROL OF THE PROPERTY.

5 (D) PENALTIES.--

6 (1) ANY PERSON VIOLATING SUBSECTION (A) OR (B):

7 (I) FOR A FIRST OFFENSE, COMMITS A SUMMARY OFFENSE
8 AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF
9 NOT LESS THAN \$100 NOR MORE THAN \$500 PLUS ALL COSTS OF
10 DISPOSING OF THE VEHICLE UNDER THE PROVISIONS OF CHAPTER
11 73 (RELATING TO ABANDONED VEHICLES AND CARGOS).

12 (II) FOR A SECOND OFFENSE, COMMITS A SUMMARY OFFENSE
13 AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF
14 \$1,000 PLUS ALL COSTS OF DISPOSING OF THE VEHICLE UNDER
15 THE PROVISIONS OF CHAPTER 73.

16 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, COMMITS A
17 MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON
18 CONVICTION, BE SENTENCED TO PAY ALL COSTS OF DISPOSING OF
19 THE VEHICLE UNDER THE PROVISIONS OF CHAPTER 73.

20 (2) IN A CASE INVOLVING A VIOLATION OF THIS SECTION, THE
21 MUNICIPALITY IN WHICH THE VEHICLE IS LOCATED MAY FILE THE
22 COMPLAINT WITH THE APPROPRIATE ISSUING AUTHORITY.

23 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

24 (1) THE AMENDMENT OF 75 PA.C.S. § 1547(B)(2) SHALL TAKE
25 EFFECT FEBRUARY 1, 2004, OR IMMEDIATELY, WHICHEVER IS LATER.

26 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

27 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
28 DAYS.