

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 961 Session of 2017

INTRODUCED BY RAFFERTY, DINNIMAN, MARTIN, SABATINA, TARTAGLIONE, SCAVELLO, AUMENT AND WARD, NOVEMBER 15, 2017

SENATOR RAFFERTY, TRANSPORTATION, AS AMENDED, DECEMBER 13, 2017

AN ACT

1 ~~Amending Title 75 (Vehicles) of the Pennsylvania Consolidated~~ <--
2 ~~Statutes, in miscellaneous provisions relating to operation~~
3 ~~of vehicles, further providing for homicide by vehicle while~~
4 ~~driving under influence.~~

5 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 75 (VEHICLES) OF <--
6 THE PENNSYLVANIA CONSOLIDATED STATUTES, IN CULPABILITY,
7 FURTHER PROVIDING FOR CAUSAL RELATIONSHIP BETWEEN CONDUCT AND
8 RESULT; IN CRIMINAL HOMICIDE, FURTHER PROVIDING FOR THE
9 OFFENSE OF MURDER; IN MISCELLANEOUS PROVISIONS, FURTHER
10 PROVIDING FOR THE OFFENSES OF HOMICIDE BY VEHICLE, AGGRAVATED
11 ASSAULT BY VEHICLE, HOMICIDE BY VEHICLE WHILE DRIVING UNDER
12 INFLUENCE AND AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING
13 UNDER THE INFLUENCE; AND, IN DRIVING AFTER IMBIBING ALCOHOL
14 OR UTILIZING DRUGS, FURTHER PROVIDING FOR GRADING.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 ~~Section 1. Section 3735(a) of Title 75 of the Pennsylvania~~ <--
18 ~~Consolidated Statutes is amended to read:~~

19 ~~§ 3735. Homicide by vehicle while driving under influence.~~

20 ~~(a) Offense defined. [Any person who unintentionally causes~~
21 ~~the death of another person as the result of a violation of~~
22 ~~section 3802 (relating to driving under influence of alcohol or~~
23 ~~controlled substance) and who is convicted of violating section~~
24 ~~3802 is guilty of a felony of the second degree when the~~

1 ~~violation is the cause of death and the sentencing court shall~~
2 ~~order the person to serve a minimum term of imprisonment of not~~
3 ~~less than three years. A consecutive three year term of~~
4 ~~imprisonment shall be imposed for each victim whose death is the~~
5 ~~result of the violation of section 3802.]~~

6 ~~(1) A person who unintentionally causes the death of~~
7 ~~another person as the result of a violation of section 3802~~
8 ~~(relating to driving under influence of alcohol or controlled~~
9 ~~substance) and who is convicted of violating section 3802:~~

10 ~~(i) is guilty of a felony of the second degree; or~~

11 ~~(ii) is guilty of a felony of the first degree if,~~

12 ~~before sentencing on the present violation, the person~~

13 ~~has incurred a conviction, adjudication of delinquency,~~

14 ~~juvenile consent decree, acceptance of Accelerated~~

15 ~~Rehabilitative Disposition or other form of preliminary~~

16 ~~disposition for any of the following:~~

17 ~~(A) An offense under section 3802.~~

18 ~~(B) An offense under former section 3731~~

19 ~~(relating to driving under influence of alcohol or~~

20 ~~controlled substance).~~

21 ~~(C) An offense which constitutes a felony under~~

22 ~~this subchapter.~~

23 ~~(D) An offense substantially similar to an~~

24 ~~offense under clause (A), (B) or (C) in another~~

25 ~~jurisdiction.~~

26 ~~(E) Any combination of the offenses under clause~~

27 ~~(A), (B), (C) or (D).~~

28 ~~(2) The sentencing court shall order a person convicted~~

29 ~~under paragraph (1)(i) to serve a minimum term of~~

30 ~~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 a violation of section
3802.~~

~~(3) The sentencing court shall order a person convicted
under paragraph (1)(ii) to serve a minimum term of
imprisonment of:~~

~~(i) Not less than five years if, before sentencing
on the present violation, the person has incurred one or
two convictions, adjudications of delinquency, juvenile
consent decrees, acceptances of Accelerated
Rehabilitative Disposition or other forms of preliminary
disposition for any of the offenses listed under
paragraph (1)(ii)(A), (B), (C), (D) or (E). A consecutive
five year term of imprisonment shall be imposed for each
victim whose death is the result of a violation of
section 3802.~~

~~(ii) Not less than seven years if, before sentencing
on the present violation, the person has incurred at
least three convictions, adjudications of delinquency,
juvenile consent decrees, acceptances of Accelerated
Rehabilitative Disposition or other forms of preliminary
disposition for any of the offenses listed under
paragraph (1)(ii)(A), (B), (C), (D) or (E). A consecutive
seven year term of imprisonment shall be imposed for each
victim whose death is the result of a violation of
section 3802.~~

~~***~~

~~Section 2. This act shall take effect in 60 days.~~

SECTION 1. SECTIONS 303(C) AND 2502(C) OF TITLE 18 OF THE
PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

<--

1 § 303. CAUSAL RELATIONSHIP BETWEEN CONDUCT AND RESULT.

2 * * *

3 (C) DIVERGENCE BETWEEN PROBABLE AND ACTUAL RESULT.--WHEN
4 RECKLESSLY OR NEGLIGENTLY CAUSING A PARTICULAR RESULT IS AN
5 ELEMENT OF AN OFFENSE, THE ELEMENT IS NOT ESTABLISHED IF THE
6 ACTUAL RESULT IS NOT WITHIN THE RISK OF WHICH THE ACTOR IS AWARE
7 OR, IN THE CASE OF NEGLIGENCE, OF WHICH HE SHOULD BE AWARE
8 UNLESS:

9 (1) THE ACTUAL RESULT DIFFERS FROM THE PROBABLE RESULT
10 ONLY IN THE RESPECT THAT A DIFFERENT PERSON OR DIFFERENT
11 PROPERTY IS INJURED OR AFFECTED OR THAT THE PROBABLE INJURY
12 OR HARM WOULD HAVE BEEN MORE SERIOUS OR MORE EXTENSIVE THAN
13 THAT CAUSED; [OR]

14 (2) THE ACTUAL RESULT INVOLVES THE SAME KIND OF INJURY
15 OR HARM AS THE PROBABLE RESULT AND IS NOT TOO REMOTE OR
16 ACCIDENTAL IN ITS OCCURRENCE TO HAVE A BEARING ON THE
17 LIABILITY OF THE ACTOR OR ON THE GRAVITY OF HIS OFFENSE[.];
18 OR

19 (3) THE ACTUAL RESULT INVOLVES THE DEATH OF A PERSON
20 CAUSED BY THE ACTOR COMMITTING AN OFFENSE UNDER SECTION
21 2502(C)(2) (RELATING TO MURDER), IN WHICH CASE THE ELEMENT OF
22 RECKLESSLY OR NEGLIGENTLY CAUSING THE DEATH OF THE PERSON
23 SHALL BE PRESUMED.

24 * * *

25 § 2502. MURDER.

26 * * *

27 (C) MURDER OF THE THIRD DEGREE.--

28 (1) ALL OTHER KINDS OF MURDER SHALL BE MURDER OF THE
29 THIRD DEGREE. MURDER OF THE THIRD DEGREE IS A FELONY OF THE
30 FIRST DEGREE.

1 (2) THIS SUBSECTION APPLIES TO MURDER OF AN INDIVIDUAL
2 KILLED AS A RESULT OF AN OFFENSE COMMITTED UNDER 75 PA.C.S. §
3 3803(A)(3) (RELATING TO GRADING).

4 * * *

5 SECTION 2. SECTIONS 3732(B), 3732.1(B) AND 3735(A) OF TITLE
6 75 ARE AMENDED TO READ:

7 § 3732. HOMICIDE BY VEHICLE.

8 * * *

9 (B) SENTENCING.--

10 (1) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A
11 PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A) MAY BE
12 SENTENCED TO AN ADDITIONAL TERM NOT TO EXCEED FIVE YEARS'
13 CONFINEMENT IF AT TRIAL THE PROSECUTION PROVES BEYOND A
14 REASONABLE DOUBT THAT THE OFFENSE OCCURRED IN AN ACTIVE WORK
15 ZONE.

16 (1.1) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW,
17 A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A) [AS THE
18 RESULT OF A VIOLATION OF SECTION] WHO IS ALSO CONVICTED OF A
19 VIOLATION OF SECTION 1501 (RELATING TO DRIVERS REQUIRED TO BE
20 LICENSED), 1543 (RELATING TO DRIVING WHILE OPERATING
21 PRIVILEGE IS SUSPENDED OR REVOKED), 3316 (RELATING TO
22 PROHIBITING TEXT-BASED COMMUNICATIONS), 3325 (RELATING TO
23 DUTY OF DRIVER ON APPROACH OF EMERGENCY VEHICLE) OR 3327
24 (RELATING TO DUTY OF DRIVER IN EMERGENCY RESPONSE AREAS) [AND
25 WHO IS CONVICTED OF VIOLATING SECTION 3316, 3325 OR 3327] MAY
26 BE SENTENCED TO AN ADDITIONAL TERM NOT TO EXCEED FIVE YEARS'
27 CONFINEMENT [WHEN THE VIOLATION RESULTED IN DEATH].

28 (2) THE PROSECUTION MUST INDICATE INTENT TO PROCEED
29 UNDER THIS SECTION IN THE INDICTMENT OR INFORMATION WHICH
30 COMMENCES THE PROSECUTION.

1 (3) THE PENNSYLVANIA COMMISSION ON SENTENCING, PURSUANT
2 TO 42 PA.C.S. § 2154 (RELATING TO ADOPTION OF GUIDELINES FOR
3 SENTENCING), SHALL PROVIDE FOR A SENTENCING ENHANCEMENT FOR
4 AN OFFENSE UNDER THIS SECTION WHEN THE VIOLATION OCCURRED IN
5 AN ACTIVE WORK ZONE OR [WAS THE RESULT OF A VIOLATION OF
6 SECTION] THE INDIVIDUAL WAS ALSO CONVICTED OF A VIOLATION OF
7 SECTION 1501, 1543, 3316, 3325 OR 3327.

8 § 3732.1. AGGRAVATED ASSAULT BY VEHICLE.

9 * * *

10 (B) SENTENCING.--

11 (1) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A
12 PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A) MAY BE
13 SENTENCED TO AN ADDITIONAL TERM NOT TO EXCEED TWO YEARS'
14 CONFINEMENT IF AT TRIAL THE PROSECUTION PROVES BEYOND A
15 REASONABLE DOUBT THAT THE OFFENSE OCCURRED IN AN ACTIVE WORK
16 ZONE.

17 (2) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A
18 PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A) [AS THE
19 RESULT OF A VIOLATION OF SECTION] WHO IS ALSO CONVICTED OF A
20 VIOLATION OF SECTION 1501 (RELATING TO DRIVERS REQUIRED TO BE
21 LICENSED), 1543 (RELATING TO DRIVING WHILE OPERATING
22 PRIVILEGE IS SUSPENDED OR REVOKED), 3316 (RELATING TO
23 PROHIBITING TEXT-BASED COMMUNICATIONS), 3325 (RELATING TO
24 DUTY OF DRIVER ON APPROACH OF EMERGENCY VEHICLE) OR 3327
25 (RELATING TO DUTY OF DRIVER IN EMERGENCY RESPONSE AREAS) [AND
26 WHO IS CONVICTED OF VIOLATING SECTION 3316, 3325 OR 3327] MAY
27 BE SENTENCED TO AN ADDITIONAL TERM NOT TO EXCEED TWO YEARS'
28 CONFINEMENT [WHEN THE VIOLATION RESULTED IN SERIOUS BODILY
29 INJURY].

30 (3) THE PROSECUTION MUST INDICATE INTENT TO PROCEED

1 UNDER THIS SECTION IN THE INDICTMENT OR INFORMATION WHICH
2 COMMENCES THE PROSECUTION.

3 (4) THE PENNSYLVANIA COMMISSION ON SENTENCING, UNDER 42
4 PA.C.S. § 2154 (RELATING TO ADOPTION OF GUIDELINES FOR
5 SENTENCING), SHALL PROVIDE FOR A SENTENCING ENHANCEMENT FOR
6 AN OFFENSE UNDER THIS SECTION WHEN THE VIOLATION OCCURRED IN
7 AN ACTIVE WORK ZONE OR [WAS THE RESULT OF A VIOLATION OF
8 SECTION] THE INDIVIDUAL WAS ALSO CONVICTED OF A VIOLATION OF
9 SECTION 1501, 1543, 3316, 3325 OR 3327.

10 § 3735. HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE.

11 (A) OFFENSE DEFINED.--[ANY PERSON WHO UNINTENTIONALLY CAUSES
12 THE DEATH OF ANOTHER PERSON AS THE RESULT OF A VIOLATION OF
13 SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
14 CONTROLLED SUBSTANCE) AND WHO IS CONVICTED OF VIOLATING SECTION
15 3802 IS GUILTY OF A FELONY OF THE SECOND DEGREE WHEN THE
16 VIOLATION IS THE CAUSE OF DEATH AND THE SENTENCING COURT SHALL
17 ORDER THE PERSON TO SERVE A MINIMUM TERM OF IMPRISONMENT OF NOT
18 LESS THAN THREE YEARS. A CONSECUTIVE THREE-YEAR TERM OF
19 IMPRISONMENT SHALL BE IMPOSED FOR EACH VICTIM WHOSE DEATH IS THE
20 RESULT OF THE VIOLATION OF SECTION 3802.]

21 (1) A PERSON WHO UNINTENTIONALLY CAUSES THE DEATH OF
22 ANOTHER PERSON AS THE RESULT OF A VIOLATION OF SECTION 3802
23 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
24 SUBSTANCE) AND WHO IS CONVICTED OF VIOLATING SECTION 3802:

25 (I) IS GUILTY OF A FELONY OF THE SECOND DEGREE; OR

26 (II) IS GUILTY OF A FELONY OF THE FIRST DEGREE IF,
27 BEFORE SENTENCING ON THE PRESENT VIOLATION, THE PERSON
28 HAS INCURRED A CONVICTION, ADJUDICATION OF DELINQUENCY,
29 JUVENILE CONSENT DECREE, ACCEPTANCE OF ACCELERATED
30 REHABILITATIVE DISPOSITION OR OTHER FORM OF PRELIMINARY

1 DISPOSITION FOR ANY OF THE FOLLOWING:

2 (A) AN OFFENSE UNDER SECTION 3802.

3 (B) AN OFFENSE UNDER FORMER SECTION 3731

4 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
5 CONTROLLED SUBSTANCE).

6 (C) AN OFFENSE WHICH CONSTITUTES A FELONY UNDER
7 THIS SUBCHAPTER.

8 (D) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN
9 OFFENSE UNDER CLAUSE (A), (B) OR (C) IN ANOTHER
10 JURISDICTION.

11 (E) ANY COMBINATION OF THE OFFENSES UNDER CLAUSE
12 (A), (B), (C) OR (D).

13 (2) THE SENTENCING COURT SHALL ORDER A PERSON CONVICTED
14 UNDER PARAGRAPH (1) (I) TO SERVE A MINIMUM TERM OF
15 IMPRISONMENT OF NOT LESS THAN THREE YEARS. A CONSECUTIVE
16 THREE-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH
17 VICTIM WHOSE DEATH IS THE RESULT OF A VIOLATION OF SECTION
18 3802.

19 (3) THE SENTENCING COURT SHALL ORDER A PERSON CONVICTED
20 UNDER PARAGRAPH (1) (II) TO SERVE A MINIMUM TERM OF
21 IMPRISONMENT OF:

22 (I) NOT LESS THAN FIVE YEARS IF, BEFORE SENTENCING
23 ON THE PRESENT VIOLATION, THE PERSON HAS INCURRED ONE OR
24 TWO CONVICTIONS, ADJUDICATIONS OF DELINQUENCY, JUVENILE
25 CONSENT DECREES, ACCEPTANCES OF ACCELERATED
26 REHABILITATIVE DISPOSITION OR OTHER FORMS OF PRELIMINARY
27 DISPOSITION FOR ANY OF THE OFFENSES LISTED UNDER
28 PARAGRAPH (1) (II) (A), (B), (C), (D) OR (E). A CONSECUTIVE
29 FIVE-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH
30 VICTIM WHOSE DEATH IS THE RESULT OF A VIOLATION OF

1 SECTION 3802.

2 (II) NOT LESS THAN SEVEN YEARS IF, BEFORE SENTENCING
3 ON THE PRESENT VIOLATION, THE PERSON HAS INCURRED AT
4 LEAST THREE CONVICTIONS, ADJUDICATIONS OF DELINQUENCY,
5 JUVENILE CONSENT DECREES, ACCEPTANCES OF ACCELERATED
6 REHABILITATIVE DISPOSITION OR OTHER FORMS OF PRELIMINARY
7 DISPOSITION FOR ANY OF THE OFFENSES LISTED UNDER
8 PARAGRAPH (1) (II) (A), (B), (C), (D) OR (E). A CONSECUTIVE
9 SEVEN-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH
10 VICTIM WHOSE DEATH IS THE RESULT OF A VIOLATION OF
11 SECTION 3802.

12 * * *

13 SECTION 3. SECTION 3735.1 OF TITLE 75 IS AMENDED BY ADDING A
14 SUBSECTION TO READ:

15 § 3735.1. AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE
16 INFLUENCE.

17 * * *

18 (A.1) SENTENCING.--IN ADDITION TO ANY OTHER PENALTY PROVIDED
19 BY LAW, A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A) AND
20 A VIOLATION OF SECTION 1501 (RELATING TO DRIVERS REQUIRED TO BE
21 LICENSED) OR 1543 (RELATING TO DRIVING WHILE OPERATING PRIVILEGE
22 IS SUSPENDED OR REVOKED) WHEN COMMITTED AT THE SAME TIME AND
23 PLACE MAY BE SENTENCED TO AN ADDITIONAL TERM NOT TO EXCEED TWO
24 YEARS' CONFINEMENT.

25 SECTION 4. SECTION 3803 OF TITLE 75 IS AMENDED TO READ:

26 § 3803. GRADING.

27 (A) BASIC OFFENSES.--EXCEPT AS PROVIDED IN SUBSECTION (B) :

28 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802 (A) (RELATING
29 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
30 SUBSTANCE) AND HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A

1 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
2 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
3 FINE UNDER SECTION 3804 (RELATING TO PENALTIES).

4 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) AND HAS
5 MORE THAN ONE PRIOR OFFENSE COMMITS A MISDEMEANOR OF THE
6 SECOND DEGREE[.], UNLESS PARAGRAPH (3) APPLIES.

7 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802 AND HAS MORE
8 THAN TWO PRIOR OFFENSES WITHIN A 10-YEAR PERIOD COMMITS A
9 FELONY OF THE THIRD DEGREE.

10 (B) OTHER OFFENSES.--

11 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
12 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
13 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A
14 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B),
15 (E) OR (F) AND WHO HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS
16 A MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
17 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
18 FINE UNDER SECTION 3804.

19 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
20 THE INDIVIDUAL REFUSED TESTING OF [BLOOD OR] BREATH OR
21 CHEMICAL TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT
22 ORDER OR ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF
23 THE UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR
24 WHO VIOLATES SECTION 3802(C) OR (D) AND WHO HAS NO PRIOR
25 OFFENSES COMMITS A MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY
26 BE SENTENCED TO A TERM OF IMPRISONMENT OF NOT MORE THAN SIX
27 MONTHS AND TO PAY A FINE UNDER SECTION 3804.

28 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
29 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
30 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A

1 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B),
2 (E) OR (F) AND WHO HAS MORE THAN ONE PRIOR OFFENSE COMMITS A
3 MISDEMEANOR OF THE FIRST DEGREE.

4 (4) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
5 THE INDIVIDUAL REFUSED TESTING OF [BLOOD OR] BREATH OR
6 CHEMICAL TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT
7 ORDER OR ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF
8 THE UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR
9 WHO VIOLATES SECTION 3802(C) OR (D) AND WHO HAS ONE [OR MORE]
10 PRIOR OFFENSES COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

11 (4.1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1)
12 WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
13 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
14 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED
15 STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES
16 SECTION 3802(C) OR (D) AND WHO HAS MORE THAN ONE PRIOR
17 OFFENSE COMMITS A FELONY OF THE THIRD DEGREE.

18 (5) AN INDIVIDUAL WHO VIOLATES SECTION 3802 WHERE A
19 MINOR UNDER 18 YEARS OF AGE WAS AN OCCUPANT IN THE VEHICLE
20 WHEN THE VIOLATION OCCURRED COMMITS A MISDEMEANOR OF THE
21 FIRST DEGREE.

22 SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.