

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 642 Session of
1997

INTRODUCED BY EGOLF, MASLAND, GEIST, BARLEY, YOUNGBLOOD, BAKER,
LAUGHLIN, MILLER, TULLI, BEBKO-JONES, DIGIROLAMO,
M. N. WRIGHT, FARGO, BELARDI, SATHER, PLATTS, SCHRODER, BARD,
WAUGH, STERN, MELIO, E. Z. TAYLOR, ROHRER, HERSHEY, STEELMAN,
TRUE, HUTCHINSON, ROBERTS, BENNINGHOFF, BROWNE, McNAUGHTON
AND ROSS, FEBRUARY 27, 1997

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 27, 1997

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for chemical testing to determine
3 amount of alcohol or controlled substance and for driving
4 under the influence of alcohol or controlled substances.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Sections 1547(d), 3731(a) and (a.1) of Title 75
8 of the Pennsylvania Consolidated Statutes are amended to read:

9 § 1547. Chemical testing to determine amount of alcohol or
10 controlled substance.

11 * * *

12 (d) Presumptions from amount of alcohol.--If chemical
13 testing of a person's breath, blood or urine shows:

14 (1) That the amount of alcohol by weight in the blood of
15 an adult is 0.05% or less, it shall be presumed that the adult
16 was not under the influence of alcohol and the adult shall not
17 be charged with any violation under section 3731(a)(1), (4) or

1 (5) (relating to driving under influence of alcohol or
2 controlled substance), or, if the adult was so charged prior to
3 the test, the charge shall be void ab initio. This fact shall
4 not give rise to any presumption concerning a violation of
5 section 3731(a)(2) or (3) or (i).

6 (2) That the amount of alcohol by weight in the blood of
7 an adult is in excess of 0.05% but less than [0.10%] 0.08%,
8 this fact shall not give rise to any presumption that the
9 adult was or was not under the influence of alcohol, but this
10 fact may be considered with other competent evidence in
11 determining whether the adult was or was not under the
12 influence of alcohol. This provision shall not negate the
13 provisions of section 3731(i).

14 (3) That the amount of alcohol by weight in the blood
15 of:

16 (i) an adult is [0.10%] 0.08% or more; or

17 (ii) a minor is 0.02% or more.

18 This fact may be introduced into evidence if the person is
19 charged with violating section 3731.

20 * * *

21 § 3731. Driving under influence of alcohol or controlled
22 substance.

23 (a) Offense defined.--A person shall not drive, operate or
24 be in actual physical control of the movement of a vehicle in
25 any of the following circumstances:

26 (1) While under the influence of alcohol to a degree
27 which renders the person incapable of safe driving.

28 (2) While under the influence of any controlled
29 substance, as defined in the act of April 14, 1972 (P.L.233,
30 No.64), known as The Controlled Substance, Drug, Device and

1 Cosmetic Act, to a degree which renders the person incapable
2 of safe driving.

3 (3) While under the combined influence of alcohol and
4 any controlled substance to a degree which renders the person
5 incapable of safe driving.

6 (4) While the amount of alcohol by weight in the blood
7 of:

8 (i) an adult is [0.10%] 0.08% or greater; or

9 (ii) a minor is 0.02% or greater.

10 (5) If all of the following apply:

11 (i) At the time of a chemical test of a sample of
12 the person's breath, blood or urine, the amount of
13 alcohol by weight in the blood of:

14 (A) an adult is [0.10%] 0.08% or greater; or

15 (B) a minor is 0.02% or greater.

16 (ii) Either:

17 (A) the sample is obtained within three hours
18 after the person drove, operated or was in actual
19 physical control of the vehicle; or

20 (B) the circumstances of the incident prevent
21 collecting the sample within three hours, obtained
22 within a reasonable additional time after the person
23 drove, operated or was in actual physical control of
24 the vehicle.

25 (a.1) Defense.--It shall be a defense to a prosecution under
26 subsection (a)(5) if the person proves by a preponderance of
27 evidence all of the following:

28 (1) The person consumed alcohol after the last instance
29 in which he drove, operated or was in actual physical control
30 of the vehicle.

1 (2) The amount of alcohol by weight in:
2 (i) an adult's blood would not have exceeded [0.10%]
3 0.08% at the time of the test but for such consumption;
4 or
5 (ii) a minor's blood would not have exceeded 0.02%
6 at the time of the test but for such consumption.
7 * * *
8 Section 2. This act shall take effect in 60 days.