

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1523 Session of
2009

INTRODUCED BY KULA, MAHONEY, STABACK, CARROLL, CLYMER, D. COSTA,
CREIGHTON, CUTLER, GERGELY, HALUSKA, LONGIETTI, MILLARD,
MURPHY, MURT, O'NEILL, PAYNE, PEIFER, READSHAW, SIPTROTH,
STURLA, SWANGER, VULAKOVICH, WATSON, YOUNGBLOOD, HORNAMAN AND
MELIO, MAY 26, 2009

REFERRED TO COMMITTEE ON GAME AND FISHERIES, MAY 26, 2009

AN ACT

1 Amending Title 34 (Game) of the Pennsylvania Consolidated
2 Statutes, in protection of property and persons, further
3 providing for hunting or furtaking prohibited while under
4 influence of alcohol or controlled substance and for chemical
5 test to determine amount of alcohol.

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

8 Section 1. Sections 2501(a)(4) and (a.1)(1)(i) and 2502(a)
9 and (d)(2) and (3) of Title 34 of the Pennsylvania Consolidated
10 Statutes are amended to read:

11 § 2501. Hunting or furtaking prohibited while under influence
12 of alcohol or controlled substance.

13 (a) General rule.--It is unlawful to hunt or take game,
14 furbearers or wildlife or aid, abet, assist or conspire to hunt
15 or take game, furbearers or wildlife anywhere in this
16 Commonwealth while in possession of a firearm of any kind or a
17 bow and arrow if:

18 * * *

1 (4) the amount of alcohol by weight in the blood of:

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

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

4 (a.1) Prima facie evidence.--

5 (1) It is prima facie evidence that:

6 (i) an adult had [0.10%] 0.08% or more by weight of
7 alcohol in his or her blood at the time of hunting or
8 taking of game, furbearers or wildlife or the aiding,
9 abetting, assisting or conspiring to hunt or take game,
10 furbearers or wildlife if the amount of alcohol by weight
11 in the blood of the person is equal to or greater than
12 [0.10%] 0.08% at the time a chemical test is performed on
13 a sample of the person's breath, blood or urine; or

14 * * *

15 § 2502. Chemical test to determine amount of alcohol.

16 (a) [General rule] Consent to and administration of chemical
17 test.--

18 (1) Any person who hunts or takes or attempts, aids,
19 abets, assists or conspires to hunt or take game, furbearers
20 or wildlife shall be deemed to have given consent to a
21 chemical test of breath, blood or urine for the purpose of
22 determining the alcoholic content of blood or the presence of
23 a controlled substance if any officer whose duty it is to
24 enforce this title shall have reasonable grounds to believe
25 the person to have been hunting or taking, or assisting or
26 attempting to hunt or take, game, furbearers or wildlife
27 while under the influence of alcohol or a controlled
28 substance.

29 (2) The test shall be administered by personnel and
30 equipment approved by regulation of the commission. The

1 commission may also promulgate regulations otherwise relating
2 to the administration of this section.

3 * * *

4 (d) Presumptions from amount of alcohol.--If chemical
5 analysis of a person's breath, blood or urine shows:

6 * * *

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

14 (3) That the amount of alcohol by weight in the blood of
15 the person tested is [0.10%] 0.08% or more, it shall be
16 presumed that the defendant was under the influence of
17 alcohol.

18 * * *

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