

## AMENDMENTS TO HOUSE BILL NO. 1357

Sponsor: SENATOR RAFFERTY

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1 Amend Bill, page 1, line 2, by inserting after "Statutes,"  
2 in falsification and intimidation,

3 Amend Bill, page 1, line 3, by striking out "and" where it  
4 occurs the first time and inserting

5 ; in general provisions, providing for the definition of  
6 "ignition interlock limited license"; in licensing of  
7 drivers, further providing for occupational limited license  
8 and providing for ignition interlock limited license; in  
9 driving after imbibing alcohol or utilizing drugs, further  
10 providing for ignition interlock and for prior appeals; and,  
11 in other required equipment, further providing

12 Amend Bill, page 3, by inserting between lines 12 and 13

13 Section 2. Section 102 of Title 75 is amended by adding a  
14 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:

21 \* \* \*

22 "Ignition interlock limited license." A driver's license  
23 issued to an individual whose operating privilege is suspended  
24 or revoked for one or more violations of section 3802 (relating  
25 to driving under influence of alcohol or controlled substance)  
26 or 1547 (relating to chemical testing to determine amount of  
27 alcohol or controlled substance) requiring the individual to  
28 operate only motor vehicles equipped with a functioning ignition  
29 interlock system.

30 \* \* \*

31 Section 3. Section 1553(a)(1), (d)(6), (7) and (8), (d.1)  
32 and (d.2) of Title 75 are amended to read:

33 § 1553. Occupational limited license.

34 (a) Issuance.--

35 (1) The department shall issue an occupational limited

1 license under the provisions of this section to a driver  
2 whose operating privileges have been suspended for a  
3 violation of this title, except for an offense under section  
4 3802 (relating to driving under influence of alcohol or  
5 controlled substance) or under former section 3731 (relating  
6 to driving under influence of alcohol or controlled  
7 substance) or for a refusal to submit to chemical testing  
8 under section 1547 (relating to chemical testing to determine  
9 amount of alcohol or controlled substance), and is not  
10 prohibited under any other provision in this section. If the  
11 underlying reason for the suspension was caused by violations  
12 committed while the driver was operating a commercial motor  
13 vehicle, the driver shall not be issued an occupational  
14 limited license for the purpose of operating a commercial  
15 motor vehicle. The department shall prohibit the issuance of  
16 an occupational limited license when disqualified from doing  
17 so under the Commercial Motor Vehicle Safety Act of 1986  
18 (Title XII of Public Law 99-570, 49 U.S.C. App. § 2701 et  
19 seq.) or the Motor Carrier Safety Improvement Act of 1999  
20 (Public Law 106-159, 113 Stat. 1748).

21 \* \* \*

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

24 \* \* \*

25 [(6) Any person who has been adjudicated delinquent,  
26 granted a consent decree or granted Accelerated  
27 Rehabilitative Disposition for driving under the influence of  
28 alcohol or controlled substance unless the suspension or  
29 revocation imposed for that conviction has been fully served.

30 (7) Any person whose operating privilege has been  
31 suspended for refusal to submit to chemical testing to  
32 determine the amount of alcohol or controlled substance  
33 unless that suspension has been fully served.

34 (8) Except as set forth in subsections (d.1) and (d.2),  
35 any person who has been convicted of driving under the  
36 influence of alcohol or controlled substance and whose  
37 license has been suspended by the department unless the  
38 suspension imposed has been fully served.]

39 \* \* \*

40 [(d.1) Adjudication eligibility.--An individual who has been  
41 convicted of an offense under section 3802 (relating to driving  
42 under influence of alcohol or controlled substance) and does not  
43 have a prior offense as defined in section 3806(a) (relating to  
44 prior offenses) shall be eligible for an occupational limited  
45 license only if the individual has served 60 days of the  
46 suspension imposed for the offense.

47 (d.2) Suspension eligibility.--

48 (1) An individual whose license has been suspended for a  
49 period of 18 months under section 1547(b)(1)(ii) (relating to  
50 chemical testing to determine amount of alcohol or controlled  
51 substance) or 3804(e)(2)(ii) (relating to penalties) shall

1 not be prohibited from obtaining an occupational limited  
2 license under this section if the individual:  
3 (i) is otherwise eligible for restoration;  
4 (ii) has served 12 months of the suspension imposed  
5 for the offense;  
6 (iii) has no more than one prior offense as defined  
7 in section 3806(b);  
8 (iv) only operates a motor vehicle equipped with an  
9 ignition interlock system as defined in section 3801  
10 (relating to definitions); and  
11 (v) has certified to the department under paragraph  
12 (3).

13 (2) A period of ignition interlock accepted under this  
14 subsection shall not count towards the one-year mandatory  
15 period of ignition interlock imposed under section 3805  
16 (relating to ignition interlock).

17 (3) If an individual seeks an occupational limited  
18 license under this subsection, the department shall require  
19 that each motor vehicle owned or registered to the person has  
20 been equipped with an ignition interlock system as defined in  
21 section 3801 as a condition of issuing an occupational  
22 limited license with an ignition interlock restriction.]

23 \* \* \*

24 Section 4. Title 75 is amended by adding a section to read:  
25 § 1556. Ignition interlock limited license.

26 (a) Issuance.--

27 (1) The department shall issue an ignition interlock  
28 limited license under this section to an individual whose  
29 operating privileges have been suspended for:

30 (i) a violation under section 3802 (relating to  
31 driving under influence of alcohol or controlled  
32 substance) or under former section 3731 (relating to  
33 driving under influence of alcohol or controlled  
34 substance); or

35 (ii) a refusal to submit to chemical testing  
36 under section 1547 (relating to chemical testing to  
37 determine amount of alcohol or controlled substance).

38 (2) The department shall issue an ignition interlock  
39 limited license under the provisions of this section only  
40 upon receiving proof that each motor vehicle owned or to be  
41 operated by the individual has been equipped with an approved  
42 ignition interlock system as defined in section 3801  
43 (relating to definitions) as a condition of issuing an  
44 ignition interlock limited license.

45 (3) An ignition interlock limited license issued under  
46 the provisions of this section permits an individual to  
47 operate motor vehicles equipped with a functioning ignition  
48 interlock system, as defined in section 3801.

49 (4) Any period in which an individual holds a valid  
50 ignition interlock limited license under this section shall  
51 count on a day-for-day basis toward any mandatory period of

1 ignition interlock use imposed under section 3805 (relating  
2 to ignition interlock) arising from the same incident.

3 (b) Petition.--

4 (1) An applicant for an ignition interlock limited  
5 license shall file a petition with the department, by  
6 certified mail, on a form prescribed by the department, and  
7 shall include proof that an approved ignition interlock  
8 system, as defined in section 3801, has been installed in one  
9 or more motor vehicles that the applicant seeks permission to  
10 operate.

11 (2) The petition shall also include proof of financial  
12 responsibility covering each vehicle the applicant requests  
13 to be permitted to operate. The department shall promulgate  
14 regulations to require additional information as well as  
15 additional evidence to verify the information contained in  
16 the petition.

17 (3) The applicant shall surrender the applicant's  
18 driver's license in accordance with section 1540 (relating to  
19 surrender of license). If the applicant's driver's license  
20 has been lost or stolen, the applicant shall submit an  
21 application for a replacement license, along with the proper  
22 fee. If the applicant is a nonresident licensed driver, the  
23 applicant shall submit an acknowledgment of suspension in  
24 lieu of a driver's license. If the applicant's license has  
25 expired, the applicant shall submit an application for  
26 renewal, along with the appropriate fee. All fines, costs and  
27 restoration fees must be paid at the time of petition.

28 (4) Consistent with the provisions of this section, if  
29 the applicant is qualified, the department shall issue an  
30 ignition interlock limited license within 20 days of receipt  
31 of the petition and all other requirements for issuance.

32 (c) Fee.--The application fee for an ignition interlock  
33 limited license shall be \$50. This fee shall be nonrefundable.

34 (d) Unauthorized issuance.--The department shall prohibit  
35 issuance of an ignition interlock limited license to:

36 (1) Any individual who is not licensed to drive by the  
37 Commonwealth or any other state.

38 (2) Any individual who is required by this title to take  
39 an examination and who has failed to take and pass the  
40 examination.

41 (3) Any individual whose operating privilege has been  
42 recalled or canceled.

43 (4) Any individual who has an unsatisfied judgment  
44 against the individual as the result of a motor vehicle  
45 operation, until the judgment has been satisfied under the  
46 provisions of section 1774 (relating to payments sufficient  
47 to satisfy judgments) or an installment agreement has been  
48 entered into to satisfy the judgment, as permitted under  
49 section 1772(b) (relating to suspension for nonpayment of  
50 judgments) or 1775 (relating to installment payment of  
51 judgments), and the financial responsibility of the person

1 has been established.

2 (5) Any individual applying for an ignition interlock  
3 limited license to operate a commercial motor vehicle.

4 (6) Any individual if the department is disqualified  
5 from issuing the ignition interlock limited license under the  
6 Commercial Motor Vehicle Safety Act of 1986 (Title XII of  
7 Public Law 99-570, 49 U.S.C. app. § 2701 et seq.) or the  
8 Motor Carrier Safety Improvement Act of 1999 (Public Law 106-  
9 159, 113 Stat. 1748).

10 (7) Any individual whose operating privilege has been  
11 suspended under section 1532(a.1) (relating to suspension of  
12 operating privilege) for conviction or adjudication of  
13 delinquency based on a violation of section 3732 (relating to  
14 homicide by vehicle) or 3735 (relating to homicide by vehicle  
15 while driving under influence).

16 (e) Adjudication eligibility.--An individual who has been  
17 convicted of an offense under section 3802 shall be eligible to  
18 apply for and, if otherwise qualified, be issued an ignition  
19 interlock limited license upon conviction.

20 (f) Suspension eligibility.--The following shall apply:

21 (1) An individual whose license has been suspended under  
22 section 1547(b) shall be eligible to apply for and, if  
23 otherwise qualified, be issued an ignition interlock limited  
24 license under this section if the individual:

25 (i) has served six months of the suspension imposed  
26 under section 1547(b)(1)(i); or

27 (ii) has served nine months of the suspension  
28 imposed under section 1547(b)(1)(ii).

29 (2) An individual whose license has been suspended under  
30 section 3804(e) (relating to penalties) shall be eligible to  
31 apply for and, if otherwise qualified, be issued an ignition  
32 interlock limited license under this section if the  
33 individual:

34 (i) has not had a prior offense, as defined under  
35 section 3806(a) (relating to prior offenses), within the  
36 past ten years. The individual shall be immediately  
37 eligible for a suspension imposed under section 3804(e)  
38 (2)(i);

39 (ii) has served six months of the suspension imposed  
40 under section 3804(e)(2)(i); or

41 (iii) has served nine months of the suspension  
42 imposed under section 3804(e)(2)(ii).

43 (g) Credit against mandatory ignition interlock  
44 requirement.--Any period during which an individual holds a  
45 valid ignition interlock limited license under subsection (e) or  
46 (f) shall count on a day-for-day basis toward the mandatory  
47 period of ignition interlock usage imposed under the applicable  
48 subparagraphs of section 3805(b)(2) arising from the same  
49 incident.

50 (h) Certification to the department.--If an individual  
51 applies for an ignition interlock limited license under this

1 section, the department shall require that one or more motor  
2 vehicles owned or to be operated by the individual be equipped  
3 with a functioning ignition interlock system, as defined in  
4 section 3801, as a condition of issuing an ignition interlock  
5 limited license with an ignition interlock restriction.

6 (i) Offenses committed during a period for which an ignition  
7 interlock limited license has been issued.--If the department  
8 receives a report of conviction of an offense for which the  
9 penalty is a cancellation, disqualification, recall, suspension  
10 or revocation of operating privileges or a report under section  
11 3815(c)(4) (relating to mandatory sentencing) for any individual  
12 who has been issued an ignition interlock limited license, the  
13 department, at its sole discretion, shall either:

14 (1) extend the term of the ignition interlock limited  
15 license for up to the original term for which the driver's  
16 license was suspended or revoked; or

17 (2) recall the ignition interlock limited license and  
18 the individual shall surrender the limited license to the  
19 department or its agents designated under the authority of  
20 section 1540.

21 (j) Restrictions.--

22 (1) Pursuant to subsection (a)(2), an individual who has  
23 been issued an ignition interlock limited license shall  
24 operate only motor vehicles equipped with a functioning  
25 ignition interlock system, as defined in section 3801.

26 (2) Except as provided under section 3808(a) (relating  
27 to illegally operating a motor vehicle not equipped with  
28 ignition interlock), any individual who violates the  
29 conditions of issuance or restrictions of the ignition  
30 interlock limited license commits a summary offense and  
31 shall, upon conviction, be sentenced to pay a fine of \$200;  
32 and, upon receipt of a certified record of conviction, the  
33 department shall recall the limited license.

34 (3) The operating privileges of an individual who has  
35 been issued an ignition interlock limited license remain  
36 under suspension or revocation, except when operating a motor  
37 vehicle in accordance with the conditions of issuance and  
38 restrictions of the ignition interlock limited license.

39 (k) Appeal from denial or recall of ignition interlock  
40 limited license.--

41 (1) Any individual who is denied an ignition interlock  
42 limited license or whose ignition interlock limited license  
43 is extended or recalled under subsection (i) may file with  
44 the department a petition for a hearing. The hearing shall be  
45 conducted in accordance with 2 Pa.C.S. (relating to  
46 administrative law and procedure).

47 (2) The department may charge a reasonable fee based on  
48 the cost to the department for conducting the hearing.

49 (3) The appeal shall not operate as an automatic  
50 supersedeas. If an administrative hearing officer orders a  
51 supersedeas in any appeal, the individual shall earn no

1 credit toward serving the suspension for which the individual  
2 was granted an ignition interlock limited license.

3 (4) An appeal from a decision of an administrative  
4 hearing officer may be taken in the manner provided in 42  
5 Pa.C.S. § 763(a) (relating to direct appeals from government  
6 agencies).

7 (5) Appeals under this subsection are exempt from the  
8 provisions of section 1550(b) (relating to judicial review)  
9 and from the provisions of 42 Pa.C.S. § 933 (relating to  
10 appeals from government agencies).

11 Section 5. Section 3805(a), (b) and (c) of Title 75 are  
12 amended and the section is amended by adding a subsection to  
13 read:

14 § 3805. Ignition interlock.

15 (a) General rule.--If a person violates section 3802  
16 (relating to driving under influence of alcohol or controlled  
17 substance) [and, within the past ten years, has a prior offense  
18 as defined in section 3806(a) (relating to prior offenses)],  
19 except for a violation of section 3802(a) where the person is  
20 subject to the penalties provided under section 3804(a)  
21 (relating to penalties) and the person has not had a prior  
22 offense, as defined under section 3806(a) (relating to prior  
23 offenses), within the past ten years, or has had their operating  
24 privileges suspended pursuant to section [1547(b.1)] 1547  
25 (relating to chemical testing to determine amount of alcohol or  
26 controlled substance) or 3808(c) (relating to illegally  
27 operating a motor vehicle not equipped with ignition interlock)  
28 and the person seeks a restoration of operating privileges, the  
29 department shall require as a condition of issuing a restricted  
30 license pursuant to this section that the following occur:

31 (1) Each motor vehicle owned or to be operated by the  
32 person [or registered to the person] has been equipped with  
33 an ignition interlock system and remains so for the duration  
34 of the restricted license period.

35 (2) If there are no motor vehicles owned or to be  
36 operated by the person or registered to the person that the  
37 person so certify to the department. [A person so certifying  
38 shall be deemed to have satisfied the requirement that all  
39 motor vehicles owned by the person or registered to the  
40 person be equipped with an ignition interlock system as  
41 required by this subsection.]

42 (b) Application for a restricted license.--A person subject  
43 to this section shall apply to the department for an ignition  
44 interlock restricted license under section 1951 (relating to  
45 driver's license and learner's permit), which shall be clearly  
46 marked to restrict the person to only driving, operating or  
47 being in actual physical control of the movement of motor  
48 vehicles equipped with an ignition interlock system. Upon  
49 issuance of an ignition interlock restricted license to any  
50 person, the department shall notify the person that until the  
51 person obtains an unrestricted license the person may not [own,

1 register,] drive, operate or be in actual physical control of  
2 the movement of any motor vehicle which is not equipped with an  
3 ignition interlock system.

4 (c) Issuance of unrestricted license.--One year from the  
5 date of issuance of an ignition interlock restricted license  
6 under this section, if otherwise eligible, a person may be  
7 issued a replacement license under section 1951(d) that does not  
8 contain the ignition interlock system restriction. The  
9 department shall not issue an unrestricted license until a  
10 person has presented all of the following:

11 (1) Proof that the person has completed the ignition  
12 interlock restricted license period under this section.

13 (2) Certification by the company that provided the  
14 ignition interlock device that the person has complied with  
15 subsection (h.2).

16 \* \* \*

17 (h.2) Declaration of compliance.--Restrictions imposed under  
18 section 1556 shall remain in effect until the department  
19 receives a declaration from the person's ignition interlock  
20 device vendor, in a form provided or approved by the department,  
21 certifying that the following incidents have not occurred in the  
22 two consecutive months prior to the date entered on the  
23 certificate:

24 (1) An attempt to start the vehicle with a breath  
25 alcohol concentration of 0.08 or more, not followed within  
26 five minutes by a subsequent attempt with a breath alcohol  
27 concentration lower than 0.08.

28 (2) Failure to take or pass any required retest.

29 (3) Failure of the person to appear at the ignition  
30 interlock system vendor when required for maintenance,  
31 repair, calibration, monitoring, inspection or replacement of  
32 the device such that the ignition interlock system no longer  
33 functions as required under subsection (h).

34 \* \* \*

35 Section 6. Sections 3806(b) and 3808(a) and (c)(1) of Title  
36 75 are amended to read:

37 § 3806. Prior offenses.

38 \* \* \*

39 (b) Repeat offenses within ten years.--The calculation of  
40 prior offenses for purposes of sections [1553(d.2) (relating to  
41 occupational limited license)] 1556(f) (relating to ignition  
42 interlock limited license), 3803 (relating to grading) and 3804  
43 (relating to penalties) shall include any conviction,  
44 adjudication of delinquency, juvenile consent decree, acceptance  
45 of Accelerated Rehabilitative Disposition or other form of  
46 preliminary disposition within the ten years before the present  
47 violation occurred for any of the following:

48 (1) an offense under section 3802;

49 (2) an offense under former section 3731;

50 (3) an offense substantially similar to an offense under  
51 paragraph (1) or (2) in another jurisdiction; or



1 (4) any combination of the offenses set forth in  
2 paragraph (1), (2) or (3).  
3 § 3808. Illegally operating a motor vehicle not equipped with  
4 ignition interlock.

5 (a) Offense defined.--

6 (1) An individual required to only drive, operate or be  
7 in actual physical control of the movement of a motor vehicle  
8 equipped with an ignition interlock system under [section  
9 1553(d.2) (relating to occupational limited license) or 3805  
10 (relating to ignition interlock)] any of the following who  
11 drives, operates or is in actual physical control of the  
12 movement of a motor vehicle within this Commonwealth without  
13 such a system commits a misdemeanor and shall, upon  
14 conviction, be sentenced to pay a fine of not less than \$300  
15 and not more than \$1,000 and to imprisonment for not more  
16 than 90 days[.]:

17 (i) Section 1556(f) (relating to ignition interlock  
18 limited license).

19 (ii) Section 3805 (relating to ignition interlock).

20 (iii) A provision substantially similar to a  
21 provision under subparagraph (i) or (ii) in another  
22 jurisdiction.

23 (2) An individual required to only drive, operate or be  
24 in actual physical control of the movement of a motor vehicle  
25 equipped with an ignition interlock system under [section  
26 1553(d.2) or 3805] any of the following who drives, operates  
27 or is in actual physical control of the movement of a motor  
28 vehicle within this Commonwealth without such a system and  
29 who has an amount of alcohol by weight in his blood that is  
30 equal to or greater than 0.025% at the time of testing or who  
31 has in his blood any amount of a Schedule I or nonprescribed  
32 Schedule II or III controlled substance, as defined in the  
33 act of April 14, 1972 (P.L.233, No.64), known as The  
34 Controlled Substance, Drug, Device and Cosmetic Act, or its  
35 metabolite commits a misdemeanor of the third degree and  
36 shall, upon conviction, be sentenced to pay a fine of \$1,000  
37 and to undergo imprisonment for a period of not less than 90  
38 days[.]:

39 (i) Section 1556(f).

40 (ii) Section 3805.

41 (iii) A provision substantially similar to a  
42 provision under subparagraph (i) or (ii) in another  
43 jurisdiction.

44 \* \* \*

45 (c) Suspension of operating privilege.--Notwithstanding  
46 section 3805(c) and (i):

47 (1) If a person who is required to only drive, operate  
48 or be in actual physical control of the movement of a motor  
49 vehicle equipped with an ignition interlock system violates  
50 this section, upon receipt of a certified record of the  
51 conviction, the department shall not issue a replacement

1 license to the person under section 1951(d) (relating to  
2 driver's license and learner's permit) that does not contain  
3 an ignition interlock restriction for a period of one year  
4 from the date of conviction until the person has complied  
5 with the requirements of section 3805 (relating to ignition  
6 interlock).

7 \* \* \*

8 Amend Bill, page 3, line 13, by striking out "2" and  
9 inserting

10 7

11 Amend Bill, page 4, line 22, by striking out all of said line  
12 and inserting

13 Section 8. This act shall take effect as follows:

14 (1) The addition of 75 Pa.C.S. § 4571(d.1) and (d.2)  
15 shall take effect in 60 days.

16 (2) This section shall take effect immediately.

17 (3) The remainder of this act shall take effect in 15  
18 months.