

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2299 Session of  
2002

INTRODUCED BY COLEMAN, CLYMER, CREIGHTON, DeLUCA, EGOLF, GABIG,  
GEIST, HERSHEY, HUTCHINSON, McILHATTAN, S. MILLER, STERN,  
E. Z. TAYLOR AND YOUNGBLOOD, JANUARY 24, 2002

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 24, 2002

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) and 3731(a) and (a.1) of Title  
8 75 of the Pennsylvania Consolidated Statutes are amended to  
9 read:

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

12 \* \* \*

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

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

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

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

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

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

(ii) a minor is 0.02% or more,

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

\* \* \*

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

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

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

(2) While under the influence of any controlled substance, as defined in the act of April 14, 1972 (P.L.233, 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      (a.1) Prima facie evidence.--

11           (1) It is prima facie evidence that:

12               (i) an adult had [0.10%] 0.08% or more by weight of  
13               alcohol in his or her blood at the time of driving,  
14               operating or being in actual physical control of the  
15               movement of any vehicle if the amount of alcohol by  
16               weight in the blood of the person is equal to or greater  
17               than [0.10%] 0.08% at the time a chemical test is  
18               performed on a sample of the person's breath, blood or  
19               urine;

20               (ii) a minor had 0.02% or more by weight of alcohol  
21               in his or her blood at the time of driving, operating or  
22               being in actual physical control of the movement of any  
23               vehicle if the amount of alcohol by weight in the blood  
24               of the minor is equal to or greater than 0.02% at the  
25               time a chemical test is performed on a sample of the  
26               person's breath, blood or urine; and

27               (iii) a person operating a commercial vehicle had  
28               0.04% or more by weight of alcohol in his or her blood at  
29               the time of driving, operating or being in actual  
30               physical control of the movement of the commercial

1 vehicle if the amount of alcohol by weight in the blood  
2 of a person operating a commercial vehicle is equal to or  
3 greater than 0.04% at the time a chemical test is  
4 performed on a sample of the person's breath, blood or  
5 urine.

6 (2) For the purposes of this section, the chemical test  
7 of the sample of the person's breath, blood or urine shall be  
8 from a sample obtained within three hours after the person  
9 drove, operated or was in actual physical control of the  
10 vehicle.

11 \* \* \*

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