

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 278 Session of
1989

INTRODUCED BY STOUT, STAPLETON, AFFLERBACH, PETERSON, SALVATORE,
LINCOLN, O'PAKE, LEWIS AND ANDREZESKI, JANUARY 24, 1989

AS REPORTED FROM COMMITTEE ON TRANSPORTATION,
HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 20, 1990

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for pedestrian-control signals; <—
3 AND FURTHER PROVIDING FOR THE PROHIBITION AGAINST
4 DISCHARGING, DISCIPLINING OR DISCRIMINATING AGAINST AN
5 EMPLOYEE FOR REFUSAL TO OPERATE A MOTOR VEHICLE OR FOR FILING
6 A COMPLAINT OR INSTITUTING OR TESTIFYING IN A PROCEEDING
7 RELATING TO A MOTOR VEHICLE SAFETY RULE.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Section 3113 of Title 75 of the Pennsylvania~~ <—
11 ~~Consolidated Statutes is amended to read:~~

12 SECTION 1. TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED <—
13 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

14 § 1619. PROHIBITION AGAINST DISCHARGING, DISCIPLINING OR
15 DISCRIMINATING AGAINST EMPLOYEES.

16 (A) GENERAL RULE.--NO PERSON SHALL DISCHARGE, DISCIPLINE OR
17 IN ANY MANNER DISCRIMINATE AGAINST ANY EMPLOYEE WITH RESPECT TO
18 THE EMPLOYEE'S COMPENSATION, TERMS, CONDITIONS OR PRIVILEGES OF
19 EMPLOYMENT BECAUSE SUCH EMPLOYEE, OR PERSON ACTING PURSUANT TO A

1 REQUEST OF THE EMPLOYEE:

2 (1) REFUSES TO OPERATE A COMMERCIAL MOTOR VEHICLE WHICH
3 IS NOT IN COMPLIANCE WITH THE PROVISIONS OF 67 PA. CODE CH.
4 231 (RELATING TO INTRASTATE MOTOR CARRIER SAFETY
5 REQUIREMENTS) AND EXISTING SAFETY LAWS; OR

6 (2) HAS FILED ANY COMPLAINT OR INSTITUTED OR CAUSED TO
7 BE INSTITUTED ANY PROCEEDING RELATING TO A VIOLATION OF A
8 COMMERCIAL MOTOR VEHICLE SAFETY RULE, REGULATION, STANDARD OR
9 ORDER, OR HAS TESTIFIED OR IS ABOUT TO TESTIFY IN ANY SUCH
10 PROCEEDING.

11 (B) UNSAFE CONDITIONS.--NO PERSON SHALL DISCHARGE,
12 DISCIPLINE OR IN ANY MANNER DISCRIMINATE AGAINST AN EMPLOYEE
13 WITH RESPECT TO THE EMPLOYEE'S COMPENSATION, TERMS, CONDITIONS
14 OR PRIVILEGES OF EMPLOYMENT FOR REFUSING TO OPERATE A VEHICLE
15 WHEN SUCH OPERATION CONSTITUTES A VIOLATION OF ANY FEDERAL
16 RULES, REGULATIONS, STANDARDS OR ORDERS APPLICABLE TO COMMERCIAL
17 MOTOR VEHICLE SAFETY OR HEALTH, OR BECAUSE OF THE EMPLOYEE'S
18 REASONABLE APPREHENSION OF SERIOUS INJURY TO HIMSELF OR THE
19 PUBLIC DUE TO THE UNSAFE CONDITION OF SUCH EQUIPMENT. THE UNSAFE
20 CONDITIONS CAUSING THE EMPLOYEE'S APPREHENSION OF INJURY MUST BE
21 OF SUCH NATURE THAT A REASONABLE PERSON, UNDER THE CIRCUMSTANCES
22 THEN CONFRONTING THE EMPLOYEE, WOULD CONCLUDE THAT THERE IS A
23 BONA FIDE DANGER OF AN ACCIDENT, INJURY OR SERIOUS IMPAIRMENT OF
24 HEALTH RESULTING FROM THE UNSAFE CONDITION. IN ORDER TO QUALIFY
25 FOR PROTECTION UNDER THIS SUBSECTION, THE EMPLOYEE MUST HAVE
26 SOUGHT FROM HIS EMPLOYER, AND HAVE BEEN UNABLE TO OBTAIN,
27 CORRECTION OF THE UNSAFE CONDITION.

28 (C) PROCEDURE.--

29 (1) ANY EMPLOYEE WHO BELIEVES HE HAS BEEN DISCHARGED,
30 DISCIPLINED OR OTHERWISE DISCRIMINATED AGAINST BY ANY PERSON

1 IN VIOLATION OF SUBSECTION (A) OR (B) MAY, WITHIN 180 DAYS
2 AFTER SUCH ALLEGED VIOLATION OCCURS, FILE, OR HAVE FILED BY
3 ANY PERSON ON THE EMPLOYEE'S BEHALF, A COMPLAINT WITH THE
4 PENNSYLVANIA PUBLIC UTILITY COMMISSION ALLEGING SUCH
5 DISCHARGE, DISCIPLINE OR DISCRIMINATION. UPON RECEIPT OF SUCH
6 A COMPLAINT, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION SHALL
7 NOTIFY THE PERSON NAMED IN THE COMPLAINT OF THE FILING OF THE
8 COMPLAINT.

9 (2) (I) WITHIN 60 DAYS OF RECEIPT OF A COMPLAINT FILED
10 UNDER PARAGRAPH (1), THE PENNSYLVANIA PUBLIC UTILITY
11 COMMISSION SHALL CONDUCT AN INVESTIGATION AND DETERMINE
12 WHETHER THERE IS REASONABLE CAUSE TO BELIEVE THAT THE
13 COMPLAINT HAS MERIT AND NOTIFY THE COMPLAINANT AND THE
14 PERSON ALLEGED TO HAVE COMMITTED A VIOLATION OF THIS
15 SECTION OF ITS FINDINGS. WHERE THE PENNSYLVANIA PUBLIC
16 UTILITY COMMISSION HAS CONCLUDED THAT THERE IS REASONABLE
17 CAUSE TO BELIEVE THAT A VIOLATION HAS OCCURRED, ITS
18 FINDING SHALL BE ACCOMPANIED BY A PRELIMINARY ORDER
19 PROVIDING THE RELIEF PRESCRIBED BY SUBPARAGRAPH (II).
20 THEREAFTER, EITHER THE PERSON ALLEGED TO HAVE COMMITTED
21 THE VIOLATION OR THE COMPLAINANT MAY, WITHIN 30 DAYS,
22 FILE OBJECTIONS TO THE FINDINGS OR PRELIMINARY ORDER, OR
23 BOTH, AND REQUEST A HEARING ON THE RECORD, EXCEPT THAT
24 THE FILING OF SUCH OBJECTIONS SHALL NOT OPERATE TO STAY
25 ANY REINSTATEMENT REMEDY CONTAINED IN THE PRELIMINARY
26 ORDER. SUCH HEARINGS SHALL BE EXPEDITIOUSLY CONDUCTED.
27 WHERE A HEARING IS NOT TIMELY REQUESTED, THE PRELIMINARY
28 ORDER SHALL BE DEEMED A FINAL ORDER WHICH IS NOT SUBJECT
29 TO JUDICIAL REVIEW. UPON THE CONCLUSION OF SUCH HEARING,
30 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION SHALL ISSUE A

1 FINAL ORDER WITHIN 120 DAYS. IN THE INTERIM, SUCH
2 PROCEEDINGS MAY BE TERMINATED AT ANY TIME ON THE BASIS OF
3 A SETTLEMENT AGREEMENT ENTERED INTO BY THE PENNSYLVANIA
4 PUBLIC UTILITY COMMISSION, THE COMPLAINANT AND THE PERSON
5 ALLEGED TO HAVE COMMITTED THE VIOLATION.

6 (II) IF, IN RESPONSE TO A COMPLAINT FILED UNDER
7 PARAGRAPH (1), THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
8 DETERMINES THAT A VIOLATION OF SUBSECTION (A) OR (B) HAS
9 OCCURRED, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
10 SHALL ORDER:

11 (A) THE PERSON WHO COMMITTED SUCH VIOLATION TO
12 TAKE AFFIRMATIVE ACTION TO ABATE THE VIOLATION;

13 (B) SUCH PERSON TO REINSTATE THE COMPLAINANT TO
14 THE COMPLAINANT'S FORMER POSITION TOGETHER WITH THE
15 COMPENSATION, INCLUDING BACK PAY, TERMS, CONDITIONS
16 AND PRIVILEGES OF THE COMPLAINANT'S EMPLOYMENT; AND

17 (C) COMPENSATORY DAMAGES.

18 (3) IF AN ORDER IS ISSUED UNDER PARAGRAPH (2), THE
19 PENNSYLVANIA PUBLIC UTILITY COMMISSION, AT THE REQUEST OF THE
20 COMPLAINANT MAY ASSESS AGAINST THE PERSON AGAINST WHOM THE
21 ORDER IS ISSUED A SUM EQUAL TO THE AGGREGATE AMOUNT OF ALL
22 COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, REASONABLY
23 INCURRED, AS DETERMINED BY THE PENNSYLVANIA PUBLIC UTILITY
24 COMMISSION, BY THE COMPLAINANT FOR, OR IN CONNECTION WITH,
25 THE BRINGING OF THE COMPLAINT UPON WHICH THE ORDER WAS
26 ISSUED.

27 (D) REVIEW OF ORDER.--

28 (1) ANY PERSON ADVERSELY AFFECTED OR AGGRIEVED BY AN
29 ORDER ISSUED AFTER A HEARING UNDER SUBSECTION (C) MAY OBTAIN
30 REVIEW OF THE ORDER IN THE COMMONWEALTH COURT. THE PETITION

1 FOR REVIEW MUST BE FILED WITHIN 60 DAYS FROM THE ISSUANCE OF
2 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION'S ORDER. SUCH
3 REVIEW SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF 42
4 PA.C.S. (RELATING TO JUDICIARY AND JUDICIAL PROCEDURE), AND
5 SHALL BE HEARD AND DECIDED EXPEDITIOUSLY.

6 (2) AN ORDER OF THE PENNSYLVANIA PUBLIC UTILITY
7 COMMISSION, WITH RESPECT TO WHICH REVIEW COULD HAVE BEEN
8 OBTAINED UNDER THIS SECTION, SHALL NOT BE SUBJECT TO JUDICIAL
9 REVIEW IN ANY CRIMINAL OR OTHER CIVIL PROCEEDING.

10 (E) ENFORCEMENT OF ORDER.--WHENEVER A PERSON HAS FAILED TO
11 COMPLY WITH AN ORDER ISSUED UNDER SUBSECTION (C)(2), THE
12 PENNSYLVANIA PUBLIC UTILITY COMMISSION SHALL FILE A CIVIL ACTION
13 IN THE COURT OF COMMON PLEAS FOR THE DISTRICT IN WHICH THE
14 VIOLATION WAS FOUND TO OCCUR IN ORDER TO ENFORCE SUCH ORDER. IN
15 ACTIONS BROUGHT UNDER THIS SUBSECTION, THE COURT OF COMMON PLEAS
16 SHALL HAVE JURISDICTION TO GRANT ALL APPROPRIATE RELIEF,
17 INCLUDING INJUNCTIVE RELIEF, REINSTATEMENT AND COMPENSATORY
18 DAMAGES.

19 SECTION 2. SECTION 3113 OF TITLE 75 IS AMENDED TO READ:

20 § 3113. Pedestrian-control signals.

21 (a) General rule.--Whenever special pedestrian-control
22 signals exhibiting [the words "Walk" or "Don't Walk"] words or
23 symbols are in place, the signals shall indicate as follows:

24 (1) Word "Walk" or walking person symbol.--Pedestrians
25 facing the signal should proceed across the roadway in the
26 direction of the signal and shall be given the right-of-way
27 by the drivers of all vehicles.

28 (2) Phrase "Don't Walk" or upraised hand symbol.--
29 Pedestrians should not start to cross the roadway in the
30 direction of the signal, but any pedestrian who has partially

completed his crossing on the "Walk" signal should proceed to a sidewalk or safety zone while the "Don't Walk" signal is showing.

(3) Flashing "Walk".--[Whenever the "Walk" indication is flashing, pedestrians] Pedestrians facing the signal are cautioned that there is possible hazard from turning vehicles, but pedestrians may proceed across the roadway in the direction of the signal [indication] and shall be given the right-of-way by the drivers of all vehicles.

(4) Flashing "Don't Walk" Signal.--[Whenever the "Don't Walk" indication is flashing, pedestrians] Pedestrians should not start to cross the roadway in the direction of the [indication] signal, but any pedestrian who has partly completed crossing during the "Walk" [indication] signal should proceed to a sidewalk or safety zone, and all drivers of vehicles shall yield to the pedestrian.

(b) Local regulation.--This section does not prohibit a municipality from establishing a summary offense for violation of subsection (a)(2) or (4).

SECTION 3. SECTION 21 OF THE ACT OF MAY 30, 1990 (P.L.173, NO.42), ENTITLED "AN ACT AMENDING TITLE 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR PAYMENT OF FEES AND TAXES WHEN APPLYING FOR A CERTIFICATE OF TITLE; PROVIDING FOR COMMERCIAL DRIVERS; FURTHER PROVIDING FOR BUSES, FOR ANTIQUE AND CLASSIC VEHICLES, FOR EXEMPTIONS FROM LICENSING, FOR CLASSES OF LICENSES, FOR SCHOOL BUS DRIVERS, FOR ISSUANCE AND CONTENT OF DRIVER'S LICENSE, FOR PRODUCTION OF A DRIVER'S LICENSE OR EVIDENCE TO AVOID CERTAIN PENALTIES, FOR REVOCATION OR SUSPENSION OF OPERATING PRIVILEGE, FOR SCHEDULE OF CONVICTIONS AND POINTS, FOR SURRENDER OF LICENSE, FOR CHEMICAL

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1 TESTING TO DETERMINE AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE,
2 FOR OCCUPATIONAL LIMITED LICENSES, FOR JUDICIAL REVIEW, FOR
3 VIOLATIONS CONCERNING LICENSES, FOR DRIVING UNDER FOREIGN
4 LICENSE DURING SUSPENSION OR REVOCATION, FOR CERTAIN
5 INDEMNIFICATION PAYMENTS; PROVIDING FOR THE REGISTRATION OF
6 LIMOUSINES; AUTHORIZING DEALERS OF MOTOR CARRIER VEHICLES AND
7 DESIGNATED AGENTS OF THE DEPARTMENT OF TRANSPORTATION TO BE
8 AGENTS FOR THE DEPARTMENT OF REVENUE FOR CERTAIN PURPOSES
9 RELATING TO THE MOTOR CARRIER ROAD TAX IDENTIFICATION MARKER;
10 FURTHER PROVIDING FOR PENALTIES, FOR OPERATION OF CERTAIN
11 VEHICLES WITHOUT REQUIRED IDENTIFICATION MARKERS FOR RECKLESS
12 DRIVING, FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
13 CONTROLLED SUBSTANCE, FOR ENFORCEMENT AGREEMENTS AND FOR REPORTS
14 BY COURTS; AND PROVIDING FOR CARELESS DRIVING," IS REPEALED.

15 Section 2 4. This act shall take effect in 60 days.

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