

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1278 Session of
1991

INTRODUCED BY COLAIZZO, DeWEESE, VEON, FAIRCHILD, PESCI, MELIO,
FLEAGLE, HANNA, TANGRETTI, CARONE, LESCOVITZ, DALEY, FARGO,
ULIANA, NAILOR, NOYE, HARPER, McNALLY, JOSEPHS, GEIST,
DeLUCA, LLOYD, ARMSTRONG, FOX, KENNEY, KOSINSKI, BELFANTI,
BELARDI, ROEBUCK, PISTELLA, TRELLO, PRESTON, TULLI, STEELMAN,
JOHNSON, SCHEETZ, MERRY, LEE, J. TAYLOR, MAYERNIK, BILLOW,
VROON, JAMES AND COY, MAY 6, 1991

REFERRED TO COMMITTEE ON TRANSPORTATION, MAY 6, 1991

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, providing for the use of ignition interlock devices
3 on motor vehicles of offenders convicted of driving under the
4 influence; and providing for a fund, for responsibilities of
5 the court, for costs of interlock devices and for offenses
6 and penalties.

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

9 Section 1. Title 75 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 § 3731.2. Ignition interlock devices.

12 (a) Ignition interlock in lieu of imprisonment.--When a
13 person is convicted of driving while under the influence of
14 alcohol or controlled substances in violation of section 3731
15 (relating to driving under influence of alcohol or controlled
16 substance), the court shall offer the person the option of
17 either serving his term of mandatory imprisonment or installing

1 an ignition interlock device on his motor vehicle. The ignition
2 interlock device shall be calibrated to prevent starting the
3 motor vehicle if the operator's blood alcohol content is 0.05%
4 or greater. If the offender decides to install an ignition
5 interlock device on his motor vehicle in lieu of imprisonment,
6 the period of installation shall be as follows:

7 (1) Six months for a first offense under section 3731
8 within the previous seven years.

9 (2) One year for a second offense if the person has
10 previously been convicted of an offense under section 3731
11 within the previous seven years.

12 (3) Two years for a third offense if the person has
13 twice previously been convicted of an offense under section
14 3731 within the previous seven years.

15 (4) Five years for a fourth offense if the person has
16 been convicted on three previous occasions of an offense
17 under section 3731 within the previous seven years.

18 (5) For the duration of the person's life for any
19 subsequent offense if the person has been convicted on four
20 previous occasions of an offense under section 3731 within
21 the previous seven years.

22 Installation of an ignition interlock device shall be in
23 addition to any period of suspension or revocation of operating
24 privileges pursuant to section 1532 (relating to revocation or
25 suspension of operating privilege) and shall be a condition for
26 full reinstatement of the person's operating privilege.

27 (b) Responsibilities of court.--Upon ordering the use of an
28 ignition interlock device, the court shall:

29 (1) State on the record the requirement for and the
30 period of use of the device and so notify the department.

1 (2) Direct that the records of the department reflect:

2 (i) that the person may not operate a motor vehicle
3 that is not equipped with an ignition interlock device;
4 and

5 (ii) whether the court has expressly permitted the
6 person to operate a motor vehicle without an ignition
7 interlock device under subsection (h).

8 (3) Direct the department to attach or imprint a
9 notation on the driver's license of any person restricted
10 under this section stating that the person may operate only a
11 motor vehicle equipped with an ignition interlock device.

12 (4) Require proof of installation of the device.

13 (5) Require the person to have the system monitored for
14 proper use and accuracy by the manufacturer of the system
15 every 60 days, and the manufacturer shall be required to
16 report the results of the monitoring to the court or other
17 appropriate agency.

18 (c) Contracts with manufacturers of ignition interlock
19 devices.--The department is authorized to contract with
20 manufacturers of ignition interlock devices for the provision of
21 Statewide service to ensure continuous availability of ignition
22 interlock devices.

23 (d) Costs of ignition interlock system.--The costs of
24 leasing, installing and maintaining the ignition interlock
25 device shall be borne by the offender. The court may waive, in
26 whole or in part, or defer the offender's responsibility to pay
27 all or part of the costs of the system if the offender meets the
28 criteria for indigence established for waiving or deferring such
29 costs. If the offender's responsibility for costs is waived, the
30 costs shall be paid from the Ignition Interlock Indigence Fund,

1 established under this section.

2 (e) Ignition Interlock Indigence Fund.--A fund is hereby
3 established, to be administered by county assistance offices
4 within the Department of Public Welfare, which shall be known as
5 the Ignition Interlock Indigence Fund. The proceeds of this fund
6 shall be used for the sole purpose of defraying the costs of
7 ignition interlock devices for indigent offenders. The
8 Department of Public Welfare shall establish criteria and
9 procedures for qualification of indigence. The criteria shall be
10 consistent with the standards for indigence adopted by the
11 Federal Government for purposes of the food stamp program.
12 Revenue for this fund shall come from a fine of \$100 to be
13 imposed on all persons convicted of violating section 3731. This
14 fine shall be imposed in addition to any other fines established
15 pursuant to section 3731.

16 (f) Additional fee for reinstatement.--A person whose
17 operating privilege has been suspended or revoked pursuant to
18 section 1532 as a result of a violation of section 3731 shall be
19 required to pay a fee of \$25 for reinstatement of his operating
20 privilege. This fee shall be in addition to any other fine
21 imposed. The proceeds of this fee shall be appropriated to
22 county assistance offices within the Department of Public
23 Welfare to pay for the costs of administration of the Ignition
24 Interlock Indigence Fund.

25 (g) Offenses defined.--

26 (1) A person prohibited under this section from
27 operating a motor vehicle that is not equipped with an
28 ignition interlock device may not solicit or have another
29 person start or attempt to start a motor vehicle equipped
30 with such a device.

1 (2) A person may not start or attempt to start a motor
2 vehicle equipped with an ignition interlock device for the
3 purpose of providing an operable motor vehicle to a person
4 who is prohibited under this section from operating a motor
5 vehicle that is not equipped with an ignition interlock
6 device.

7 (3) A person may not knowingly provide a motor vehicle
8 not equipped with a functioning ignition interlock device to
9 another person who the provider knows is prohibited from
10 operating a motor vehicle not equipped with an ignition
11 interlock device.

12 (4) A person may not tamper with or in any way attempt
13 to circumvent the operation of an ignition interlock device
14 that has been installed in a motor vehicle.

15 (h) Penalties.--Any person violating any provisions of
16 subsection (g) commits a felony of the third degree and shall,
17 upon conviction, be sentenced to pay a fine of \$1,000 and to
18 imprisonment for not more than seven years. This penalty shall
19 not apply in either of the following cases.

20 (1) Starting a motor vehicle or requesting to start a
21 motor vehicle equipped with an ignition interlock device when
22 done for the purpose of safety or mechanical repair of the
23 device or the vehicle and the person subject to the
24 restriction does not operate the vehicle; or

25 (2) The court finds that a person is required to operate
26 a motor vehicle in the course and scope of the person's
27 employment, and, if the vehicle is owned by an employer, the
28 person may operate that vehicle during regular working hours
29 for purposes of his employment without installation of an
30 ignition interlock device if the employer has been notified

1 of the driving privilege restriction and if proof of that
2 notification is with the vehicle. This employment exemption
3 shall not apply, however, if the business entity that owns
4 the vehicle is owned or controlled by the person who is
5 prohibited from operating a motor vehicle not equipped with
6 an ignition interlock device.

7 (i) Warning label.--Manufacturers of ignition interlock
8 devices who have contractual arrangements to provide these
9 devices to the Commonwealth shall be required to affix a warning
10 label on each ignition interlock device. The warning label shall
11 state that any person tampering with, circumventing or otherwise
12 misusing the ignition interlock system commits a felony of the
13 third degree and shall, upon conviction, be sentenced to pay a
14 fine of \$1,000 and to imprisonment for not more than seven
15 years.

16 (j) Definition.--As used in this section, the term "ignition
17 interlock device" means a device which connects a motor vehicle
18 ignition system to a breath-alcohol analyzer and prevents a
19 motor vehicle ignition from starting if a driver's blood alcohol
20 level exceeds the calibrated setting on the device.

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