

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2478 Session of
1992

INTRODUCED BY MAYERNIK, PISTELLA, CESSAR, TRELLO, ITKIN, MURPHY,
LEVDANSKY, KAISER, GIGLIOTTI, MICHLOVIC, PETRONE, McNALLY,
COWELL, SALOOM, KOSINSKI, STISH, VROON, McHALE, HARPER,
GEIST, NAHILL, JOSEPHS, BATTISTO, LANGTRY, SAURMAN, MRKONIC,
JOHNSON AND DERMODY, MARCH 11, 1992

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 11, 1992

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75
2 (Vehicles) of the Pennsylvania Consolidated Statutes,
3 imposing and providing for the distribution of an additional
4 fine for conviction of driving under the influence of alcohol
5 or controlled substance.

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

8 Section 1. Sections 3571(b) and 3573(b) of Title 42 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 3571. Commonwealth portion of fines, etc.

11 * * *

12 (b) Vehicle offenses.--

13 (1) All fines forfeited, recognizances and other
14 forfeitures imposed, lost or forfeited in connection with
15 matters arising under Chapter 77 of Title 75 (relating to
16 snowmobiles) shall be payable to the Commonwealth.

17 (2) Except as provided in paragraph (4), when
18 prosecution under any other provision of Title 75 (relating

1 to vehicles) is the result of State Police action, all fines
2 forfeited, recognizances and other forfeitures imposed, lost
3 or forfeited shall be payable to the Commonwealth, for credit
4 to the Motor License Fund. One-half of the revenue shall be
5 paid to municipalities in the same ratio provided in section
6 4 of the act of June 1, 1956 (P.L.1944, No.655), relating to
7 partial allocation of liquid fuels and fuel use tax proceeds.

8 (3) Except as provided in section 3573 (relating to
9 municipal corporation portion of fines, etc.), when
10 prosecution under any other provision of Title 75 is the
11 result of local police action, one-half of all fines
12 forfeited, recognizances and other forfeitures imposed, lost
13 or forfeited shall be payable to the Commonwealth, for credit
14 to the Motor License Fund.

15 (4) (i) When prosecution under 75 Pa.C.S. § 3731
16 (relating to driving under influence of alcohol or
17 controlled substance) is the result of State Police
18 action, 50% of all fines forfeited, recognizances and
19 other forfeitures imposed, lost or forfeited, but not
20 including additional fines imposed, shall be payable to
21 the Commonwealth, for credit to the Motor License Fund,
22 and 50% shall be payable to the county which shall be
23 further divided as follows:

24 [(i)] (A) Fifty percent of the moneys received
25 shall be allocated to the appropriate county
26 authority which implements the county drug and
27 alcohol program to be used solely for the purposes of
28 aiding programs promoting alcoholism prevention,
29 education, treatment and research.

30 [(ii)] (B) Fifty percent of the moneys received

1 shall be used for expenditures incurred for county
2 jails, prisons, workhouses and detention centers.

3 (ii) When prosecution under 75 Pa.C.S. § 3731 is the
4 result of State Police action, all additional fines
5 imposed shall be distributed as follows:

6 (A) Where the prosecution is conducted in a
7 county of the first class or a county of the second
8 class and the county of the first class or county of
9 the second class operates a county laboratory that
10 provides assistance in criminal prosecutions, all
11 additional fines imposed shall be paid to the county
12 and shall be used solely for operation and
13 maintenance of the county laboratory. If a county of
14 the first class or a county of the second class does
15 not operate a county laboratory that provides
16 assistance in criminal prosecutions, all additional
17 fines imposed shall be paid to the State Police and
18 shall be used to operate and maintain laboratories
19 that provide assistance in criminal investigations.

20 (B) Where the prosecution is conducted in a
21 county other than a county of the first class or a
22 county of the second class, all additional fines
23 imposed shall be paid to the State Police and shall
24 be used to operate and maintain laboratories that
25 provide assistance in criminal investigations.

26 * * *

27 § 3573. Municipal corporation portion of fines, etc.

28 * * *

29 (b) Vehicle offenses.--

30 (1) When prosecution under the provisions of Title 75

1 (relating to vehicles) for parking is the result of local
2 police action, all fines forfeited, recognizances and other
3 forfeitures imposed, lost or forfeited shall be payable to
4 the municipal corporation under which the local police are
5 organized.

6 (2) Except as provided in paragraph (3), when
7 prosecution under any other provision of Title 75 (except
8 Chapter 77 (relating to snowmobiles)) is the result of local
9 police action, one-half of all fines forfeited, recognizances
10 and other forfeitures imposed, lost or forfeited shall be
11 payable to the municipal corporation under which the local
12 police are organized.

13 (3) (i) When prosecution under 75 Pa.C.S. § 3731
14 (relating to driving under influence of alcohol or
15 controlled substance) is the result of local police
16 action, 50% of all fines forfeited, recognizances and
17 other forfeitures imposed, lost or forfeited, but not
18 including additional fines imposed, shall be payable to
19 the municipal corporation under which the local police
20 are organized and 50% shall be payable to the county
21 which shall be further divided as follows:

22 [(i)] (A) Fifty percent of the moneys received
23 shall be allocated to the appropriate county
24 authority which implements the county drug and
25 alcohol program to be used solely for the purposes of
26 aiding programs promoting alcoholism prevention,
27 education, treatment and research.

28 [(ii)] (B) Fifty percent of the moneys received
29 shall be used for expenditures incurred for county
30 jails, prisons, workhouses and detention centers.

1 (ii) When prosecution under 75 Pa.C.S. § 3731 is the
2 result of local police action, all additional fines
3 imposed shall be distributed as follows:

4 (A) Where the prosecution is conducted in a
5 county of the first class or a county of the second
6 class and the county of the first class or county of
7 the second class operates a county laboratory that
8 provides assistance in criminal prosecutions, all
9 additional fines imposed shall be paid to the county
10 and shall be used solely for operation and
11 maintenance of the county laboratory. If a county of
12 the first class or a county of the second class does
13 not operate a county laboratory that provides
14 assistance in criminal prosecutions, all additional
15 fines imposed shall be paid to the State Police and
16 shall be used to operate and maintain laboratories
17 that provide assistance in criminal investigations.

18 (B) Where the prosecution is conducted in a
19 county other than a county of the first class or a
20 county of the second class, all additional fines
21 imposed shall be paid to the State Police and shall
22 be used to operate and maintain laboratories that
23 provide assistance in criminal investigations.

24 * * *

25 Section 2. Section 3731(e) of Title 75 is amended to read:

26 § 3731. Driving under influence of alcohol or controlled
27 substance.

28 * * *

29 (e) Penalty.--

30 (1) Any person violating any of the provisions of this

1 section is guilty of a misdemeanor of the second degree and
2 the sentencing court shall order the person to pay a fine of
3 not less than \$300 and an additional fine of not less than
4 \$150 and serve a minimum term of imprisonment of:

5 (i) Not less than 48 consecutive hours.

6 (ii) Not less than 30 days if the person has
7 previously accepted Accelerated Rehabilitative
8 Disposition or any other form of preliminary disposition,
9 been convicted of, adjudicated delinquent or granted a
10 consent decree under the Juvenile Act (42 Pa.C.S. § 6301
11 et seq.) based on an offense under this section or of an
12 equivalent offense in this or other jurisdictions within
13 the previous seven years.

14 (iii) Not less than 90 days if the person has twice
15 previously been convicted of, adjudicated delinquent or
16 granted a consent decree under the Juvenile Act based on
17 an offense under this section or of an equivalent offense
18 in this or other jurisdictions within the previous seven
19 years.

20 (iv) Not less than one year if the person has three
21 times previously been convicted of, adjudicated
22 delinquent or granted a consent decree under the Juvenile
23 Act based on an offense under this section or of an
24 equivalent offense in this or other jurisdictions within
25 the previous seven years.

26 (2) Acceptance of Accelerated Rehabilitative
27 Disposition, an adjudication of delinquency or a consent
28 decree under the Juvenile Act or any other form of
29 preliminary disposition of any charge brought under this
30 section shall be considered a first conviction for the

1 purpose of computing whether a subsequent conviction of a
2 violation of this section shall be considered a second,
3 third, fourth or subsequent conviction.

4 (3) The sentencing guidelines promulgated by the
5 Pennsylvania Commission on Sentencing shall not supersede the
6 mandatory penalties of this section.

7 (4) The Commonwealth has the right to appeal directly to
8 the Superior Court any order of court which imposes a
9 sentence for violation of this section which does not meet
10 the requirements of this section. The Superior Court shall
11 remand the case to the sentencing court for imposition of a
12 sentence in accordance with the provisions of this section.

13 (5) Notwithstanding the provision for direct appeal to
14 the Superior Court, if, in a city of the first class, a
15 person appeals from a judgment of sentence under this section
16 from the municipal court to the common pleas court for a
17 trial de novo, the Commonwealth shall have the right to
18 appeal directly to the Superior Court from the order of the
19 common pleas court if the sentence imposed is in violation of
20 this section. If, in a city of the first class, a person
21 appeals to the court of common pleas after conviction of a
22 violation of this section in the municipal court and
23 thereafter withdraws his appeal to the common pleas court,
24 thereby reinstating the judgment of sentence of the municipal
25 court, the Commonwealth shall have 30 days from the date of
26 the withdrawal to appeal to the Superior Court if the
27 sentence is in violation of this section.

28 (6) Any person who accepts Accelerated Rehabilitative
29 Disposition of any charge brought under this section shall
30 accept as conditions the imposition of and the judge shall

1 impose in addition to any other conditions all of the
2 following:

3 (i) A fee to cover the costs referred to in section
4 1548(e) (relating to costs).

5 (ii) A mandatory suspension of operating privilege
6 for a period of not less than one month but not more than
7 12 months.

8 (iii) A condition that the defendant, as a condition
9 to entering the program, make restitution to any person
10 who incurred determinable financial loss as a result of
11 the defendant's actions which resulted in a charge of
12 violating this section.

13 (iv) Court supervision for any defendant required to
14 make restitution or submit to counseling or treatment.

15 (v) Court supervision for a period of not less than
16 six months when the Court Reporting Network indicates
17 that counseling or treatment is not necessary and not
18 less than 12 months when the Court Reporting Network
19 indicates that counseling or treatment is in order.

20 (vi) A fee to cover the reasonable costs, if any, of
21 a municipal corporation in connection with a charge
22 brought under this section which results in Accelerated
23 Rehabilitative Disposition.

24 (7) Accelerated Rehabilitative Disposition or other
25 preliminary disposition of any charge of violating this
26 section may be revoked and the court shall direct the
27 attorney for the Commonwealth to proceed on the charges as
28 prescribed in general rules if the defendant:

29 (i) is charged with or commits any crime enumerated
30 in Title 18 (relating to crimes and offenses) or in

1 section 1542 within the probationary period;

2 (ii) fails to make restitution as provided for in
3 this section;

4 (iii) fails to successfully complete the alcohol
5 highway safety school required by section 1548(b);

6 (iv) fails to successfully complete any program of
7 counseling or treatment, or both, required as a condition
8 of Accelerated Rehabilitative Disposition; or

9 (v) violates the terms and conditions of Accelerated
10 Rehabilitative Disposition in any other way.

11 (7.1) In addition to the conditions set forth in
12 paragraph (7) for Accelerated Rehabilitative Disposition of
13 any charge brought under this section, the judge may impose,
14 and the person shall accept, the condition that the person
15 engage in a program of collecting litter from public and
16 private property, especially property which is littered with
17 alcoholic beverage containers. The duration of the person's
18 participation in a litter collection program shall not exceed
19 the duration of the probationary period imposed on the person
20 under Accelerated Rehabilitative Disposition.

21 (8) With the exception of program costs referred to in
22 section 1548(e) or any restitution referred to in this
23 section, and with the exception of any fees imposed pursuant
24 to paragraph (6)(vi) which shall be distributed to the
25 affected municipal corporation, any fee or financial
26 condition imposed by a judge as a condition of Accelerated
27 Rehabilitative Disposition or any other preliminary
28 disposition of any charge under this section shall be
29 distributed as provided for in 42 Pa.C.S. §§ 3571 (relating
30 to Commonwealth portion of fines, etc.) and 3573 (relating to

1 municipal corporation portion of fines, etc.).

2 * * *

3 Section 3. This act shall apply to offenses committed on or
4 after the effective date of this act.

5 Section 4. This act shall take effect in 60 days.