

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2526 Session of  
1994

INTRODUCED BY NAILOR, EGOLF, VANCE, MASLAND, PICCOLA, GORDNER,  
SATHER, CESSAR, WAUGH, MAITLAND, FARMER, MUNDY, FARGO,  
FAIRCHILD, MELIO, LAUB, ARMSTRONG, GEIST, STETLER, HENNESSEY,  
SAYLOR, L. I. COHEN, E. Z. TAYLOR, KING, S. H. SMITH, PLATTS,  
FAJT, HUTCHINSON, TULLI, RUBLEY, STERN, GERLACH, MARSICO,  
MILLER AND BATTISTO, FEBRUARY 2, 1994

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 2, 1994

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, further providing for revocation or suspension of  
3 operating privilege and for driving under the influence of  
4 alcohol or controlled substance.

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

7 Section 1. Section 1532(b) of Title 75 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 1532. Revocation or suspension of operating privilege.

10 \* \* \*

11 (b) Suspension.--

12 (1) The department shall suspend the operating privilege  
13 of any driver for six months upon receiving a certified  
14 record of the driver's conviction of or an adjudication of  
15 delinquency based on any offense under the following  
16 provisions:

17 Section 3367 (relating to racing on highways).

1           Section 3733 (relating to fleeing or attempting to  
2           elude police officer).

3           Section 3734 (relating to driving without lights to  
4           avoid identification or arrest).

5           Section 3736 (relating to reckless driving).

6           Section 3743 (relating to accidents involving damage  
7           to attended vehicle or property).

8           (2) The department shall suspend the operating privilege  
9           of any driver for six months upon receiving a certified  
10          record of the driver's conviction of a subsequent offense  
11          under the following provisions:

12          Section 1501(a) (relating to drivers required to be  
13          licensed).

14          Section 1543 (relating to driving while operating  
15          privilege is suspended or revoked).

16          (3) The department shall suspend the operating privilege  
17          of any driver for 12 months upon receiving a certified record  
18          of the driver's conviction of section 3731 (relating to  
19          driving under influence of alcohol or controlled substance)  
20          or an adjudication of delinquency based on section 3731. The  
21          department shall, however, suspend the operating privilege of  
22          a driver for 60 days upon receipt of an order under section  
23          3731(j). The department shall suspend the operating privilege  
24          of any driver for six months upon receiving a certified  
25          record of a consent decree granted under 42 Pa.C.S. Ch. 63  
26          (relating to juvenile matters) based on section 3731.

27          (4) This subsection does not effect an additional period  
28          of revocation of the operating privileges of a driver who  
29          receives an additional period of revocation for a second or  
30          subsequent violation of section 1543.

1       \* \* \*

2       Section 2. Section 3731(e) of Title 75 is amended and the  
3 section is amended by adding subsections to read:

4   § 3731. Driving under influence of alcohol or controlled  
5               substance.

6       \* \* \*

7       (e) Penalty.--

8           (1) Any person violating any of the provisions of this  
9 section is guilty of a misdemeanor of the second degree and  
10 the sentencing court shall order the person to pay a fine of  
11 not less than \$300 and serve a minimum term of imprisonment  
12 of:

13               (i) Not less than 48 consecutive hours.

14               (ii) Not less than 30 days if the person has  
15 previously accepted Accelerated Rehabilitative  
16 Disposition or any other form of preliminary disposition,  
17 been convicted of, adjudicated delinquent or granted a  
18 consent decree under the Juvenile Act (42 Pa.C.S. § 6301  
19 et seq.) based on an offense under this section or of an  
20 equivalent offense in this or other jurisdictions within  
21 the previous seven years.

22               (iii) Not less than 90 days if the person has twice  
23 previously been convicted of, adjudicated delinquent or  
24 granted a consent decree under the Juvenile Act based on  
25 an offense under this section or of an equivalent offense  
26 in this or other jurisdictions within the previous seven  
27 years.

28               (iv) Not less than one year if the person has three  
29 times previously been convicted of, adjudicated  
30 delinquent or granted a consent decree under the Juvenile

1 Act based on an offense under this section or of an  
2 equivalent offense in this or other jurisdictions within  
3 the previous seven years.

4 (2) Acceptance of Accelerated Rehabilitative  
5 Disposition, an adjudication of delinquency or a consent  
6 decree under the Juvenile Act or any other form of  
7 preliminary disposition of any charge brought under this  
8 section shall be considered a first conviction for the  
9 purpose of computing whether a subsequent conviction of a  
10 violation of this section shall be considered a second,  
11 third, fourth or subsequent conviction.

12 (3) The sentencing guidelines promulgated by the  
13 Pennsylvania Commission on Sentencing shall not supersede the  
14 mandatory penalties of this section.

15 (4) The Commonwealth has the right to appeal directly to  
16 the Superior Court any order of court which imposes a  
17 sentence for violation of this section which does not meet  
18 the requirements of this section. The Superior Court shall  
19 remand the case to the sentencing court for imposition of a  
20 sentence in accordance with the provisions of this section.

21 (5) Notwithstanding the provision for direct appeal to  
22 the Superior Court, if, in a city of the first class, a  
23 person appeals from a judgment of sentence under this section  
24 from the municipal court to the common pleas court for a  
25 trial de novo, the Commonwealth shall have the right to  
26 appeal directly to the Superior Court from the order of the  
27 common pleas court if the sentence imposed is in violation of  
28 this section. If, in a city of the first class, a person  
29 appeals to the court of common pleas after conviction of a  
30 violation of this section in the municipal court and

1       thereafter withdraws his appeal to the common pleas court,  
2       thereby reinstating the judgment of sentence of the municipal  
3       court, the Commonwealth shall have 30 days from the date of  
4       the withdrawal to appeal to the Superior Court if the  
5       sentence is in violation of this section.

6           (6) Any person who accepts Accelerated Rehabilitative  
7       Disposition of any charge brought under this section shall  
8       accept as conditions the imposition of and the judge shall  
9       impose in addition to any other conditions all of the  
10      following:

11           (i) A fee to cover the costs referred to in section  
12      1548(e) (relating to costs).

13           (ii) A mandatory suspension of operating privilege  
14      for a period of not less than one month but not more than  
15      12 months.

16           (iii) A condition that the defendant, as a condition  
17      to entering the program, make restitution to any person  
18      who incurred determinable financial loss as a result of  
19      the defendant's actions which resulted in a charge of  
20      violating this section.

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

23           (v) Court supervision for a period of not less than  
24      six months when the Court Reporting Network indicates  
25      that counseling or treatment is not necessary and not  
26      less than 12 months when the Court Reporting Network  
27      indicates that counseling or treatment is in order.

28           (vi) A fee to cover the reasonable costs, if any, of  
29      a municipal corporation in connection with a charge  
30      brought under this section which results in Accelerated

Rehabilitative Disposition.

(vii) Use of an ignition interlock device.

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

(i) is charged with or commits any crime enumerated in Title 18 (relating to crimes and offenses) or in section 1542 within the probationary period;

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

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

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

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

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

(8) With the exception of program costs referred to in

1 section 1548(e) or any restitution referred to in this  
2 section, and with the exception of any fees imposed pursuant  
3 to paragraph (6)(vi) which shall be distributed to the  
4 affected municipal corporation, any fee or financial  
5 condition imposed by a judge as a condition of Accelerated  
6 Rehabilitative Disposition or any other preliminary  
7 disposition of any charge under this section shall be  
8 distributed as provided for in 42 Pa.C.S. §§ 3571 (relating  
9 to Commonwealth portion of fines, etc.) and 3573 (relating to  
10 municipal corporation portion of fines, etc.).

11 \* \* \*

12 (j) Ignition interlock device.--The court shall have the  
13 authority to order persons convicted and sentenced under  
14 subsection (e)(1)(ii) to undergo a license suspension of 60 days  
15 followed by the use of an ignition interlock device for one  
16 year.

17 (k) Eligibility.--A person is eligible under subsection (j)  
18 only if the person:

19 (1) received a final court order pursuant to Pa.R.C.P.  
20 No. 185 indicating successful completion of Accelerated  
21 Rehabilitative Disposition and did not participate in an  
22 ignition interlock program as a condition thereof;

23 (2) has no other record of convictions for violations of  
24 this title;

25 (3) must drive for employment purposes;

26 (4) has successfully completed an approved highway  
27 safety school program under section 1549 (relating to  
28 establishment of schools) and any other program of counseling  
29 or treatment required by the court.

30 (l) Violation.--If a person violates a condition of the

1 program or commits a violation of this section during  
2 participation in the program, the court shall order the  
3 suspension of the operating privilege of the person for one  
4 year.

5 (m) Definition.--As used in this section, the term "ignition  
6 interlock device" means:

7 (1) A blood-alcohol concentration equivalence measuring  
8 device or a performance impairment device which prevents a  
9 motor vehicle from being started at any time without first  
10 determining through a deep lung sample the operator's  
11 equivalent breath-alcohol level. The system shall be  
12 calibrated so that the motor vehicle may not be started if  
13 the blood-alcohol level of the operator, as measured by the  
14 test, reaches a level of 0.03%.

15 (2) Any device similar to one described in paragraph (1)  
16 which has been approved by the Pennsylvania State Police and  
17 which performs a comparable test which prevents a vehicle  
18 from being started if the test is not successfully completed.

19 Section 3. This act shall take effect in 60 days.