
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2527 Session of
1994

INTRODUCED BY VANCE, EGOLF, MASLAND, NAILOR, PICCOLA, SATHER,
CESSAR, MAITLAND, FARMER, FARGO, MELIO, LAUB, ARMSTRONG,
GEIST, SAYLOR, L. I. COHEN, ULIANA, E. Z. TAYLOR, KING,
PLATTS, FAJT, HUTCHINSON, TULLI, RUBLEY, STERN, MARSICO,
GERLACH AND MILLER, 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 driving under the influence.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Section 3731(d) of Title 75 of the Pennsylvania
6 Consolidated Statutes is amended and subsection (e)(1) is
7 amended by adding a subparagraph to read:

8 § 3731. Driving under influence of alcohol or controlled
9 substance.

10 * * *

11 (d) Certain dispositions prohibited.--The attorney for the
12 Commonwealth shall not submit a charge brought under this
13 section for Accelerated Rehabilitative Disposition if:

14 (1) the defendant has been found guilty of or accepted
15 Accelerated Rehabilitative Disposition of a charge brought
16 under this section within seven years of the date of the

current offense;

(2) the defendant committed any other act in connection with the present offense which, in the judgment of the attorney for the Commonwealth, constitutes a violation of any of the specific offenses enumerated within section 1542 (relating to revocation of habitual offender's license); [or]

(3) an accident occurred in connection with the events surrounding the current offense and any person, other than the defendant, was killed or seriously injured as a result of the accident; or

(4) there was a passenger under 16 years of age in the vehicle the defendant was operating.

(e) Penalty.--

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

* * *

(v) Not less than 45 days if there was a passenger under 16 years of age in the vehicle the person was operating and if, prior to the violation, the person has been convicted of, or adjudicated delinquent or granted a consent decree under the Juvenile Act (42 Pa.C.S. § 6301 et seq.) based on, an offense under this section in which there was a passenger under 16 years of age in the vehicle the defendant was operating. Provisions of this subparagraph shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the

1 Commonwealth's intention to proceed under this
2 subparagraph shall be provided after conviction and
3 before sentencing. The applicability of this subparagraph
4 shall be determined at sentencing. The court shall
5 consider any evidence presented at trial and shall afford
6 the Commonwealth and the defendant an opportunity to
7 present any necessary additional evidence and shall
8 determine, by a preponderance of the evidence, if this
9 subparagraph is applicable.

10 * * *

11 Section 2. The addition of 75 Pa.C.S. § 3731(d)(4) and
12 (e)(1)(v) shall apply to sentencing for offenses which take
13 place on or after the effective date of this act.

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