

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1083 Session of
1997

INTRODUCED BY O'PAKE, AFFLERBACH, STAPLETON, COSTA, HELFRICK,
DELP AND HART, SEPTEMBER 2, 1997

REFERRED TO JUDICIARY, SEPTEMBER 2, 1997

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
17 current offense;

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

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

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

12 (e) Penalty.--

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

18 * * *

19 (v) Not less than 60 days if there was a passenger
20 under 16 years of age in the vehicle the person was
21 operating and if, prior to the violation, the person has
22 once previously been convicted of a violation of this
23 section or adjudicated delinquent or granted a consent
24 decree under 42 Pa.C.S. Ch. 63 (relating to juvenile
25 matters) based on an offense under this section and not
26 less than 90 days if there was a passenger under 16 years
27 of age in the vehicle the person was operating and if,
28 prior to the violation, the person has twice previously
29 been convicted of a violation of this section, or
30 adjudicated delinquent or granted a consent decree under

1 42 Pa.C.S. Ch. 63 based on an offense under this section.
2 Provisions of this subparagraph shall not be an element
3 of the crime, and notice thereof to the defendant shall
4 not be required prior to conviction, but reasonable
5 notice of the Commonwealth's intention to proceed under
6 this subparagraph shall be provided after conviction and
7 before sentencing. The applicability of this subparagraph
8 shall be determined at sentencing. The court shall
9 consider any evidence presented at trial and shall afford
10 the Commonwealth and the defendant an opportunity to
11 present any necessary additional evidence and shall
12 determine, by a preponderance of the evidence, if this
13 subparagraph is applicable.

14 * * *

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

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