

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 679 Session of
2007

INTRODUCED BY ORIE, WONDERLING, LOGAN, RAFFERTY, RHOADES,
ERICKSON, BOSCOLA, C. WILLIAMS AND COSTA, MARCH 23, 2007

REFERRED TO TRANSPORTATION, MARCH 23, 2007

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for definitions, for driving
3 under the influence of alcohol or controlled substance, for
4 penalties, for ignition interlock, for accelerated
5 rehabilitative disposition, for illegally operating a motor
6 vehicle not equipped with ignition interlock and for drug and
7 alcohol assessments; and making an editorial change.

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

10 Section 1. Sections 3801, 3802(b) and (c) and 3804(a), (b),
11 (c) and (e) of Title 75 of the Pennsylvania Consolidated
12 Statutes are amended to read:

13 § 3801. Definitions.

14 The following words and phrases when used in this chapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Adult." An individual who is at least 21 years of age.

18 "Department." The Department of Transportation of the
19 Commonwealth.

20 "Ignition interlock system." A system approved by the

1 department which prevents a vehicle from being started [or
2 operated] unless the operator first provides a breath sample
3 indicating that the operator has an alcohol level less than
4 0.025%.

5 "Minor." An individual who is under 21 years of age.

6 § 3802. Driving under influence of alcohol or controlled
7 substance.

8 * * *

9 (b) High rate of alcohol.--An individual may not drive,
10 operate or be in actual physical control of the movement of a
11 vehicle after imbibing a sufficient amount of alcohol such that
12 the alcohol concentration in the individual's blood or breath is
13 at least 0.10% but less than [0.16%] 0.15% within two hours
14 after the individual has driven, operated or been in actual
15 physical control of the movement of the vehicle.

16 (c) Highest rate of alcohol.--An individual may not drive,
17 operate or be in actual physical control of the movement of a
18 vehicle after imbibing a sufficient amount of alcohol such that
19 the alcohol concentration in the individual's blood or breath is
20 [0.16%] 0.15% or higher within two hours after the individual
21 has driven, operated or been in actual physical control of the
22 movement of the vehicle.

23 * * *

24 § 3804. Penalties.

25 (a) General impairment.--Except as set forth in subsection
26 (b) or (c), an individual who violates section 3802(a) (relating
27 to driving under influence of alcohol or controlled substance)
28 shall be sentenced as follows:

29 (1) For a first offense, to:

30 (i) undergo a mandatory minimum term of six months'

1 probation;

2 (ii) pay a fine of \$300;

3 (iii) attend an alcohol highway safety school
4 approved by the department; [and]

5 (iv) comply with all drug and alcohol treatment
6 requirements imposed under sections 3814 (relating to
7 drug and alcohol assessments) and 3815 (relating to
8 mandatory sentencing)[.]; and

9 (v) participate in and comply with the ignition
10 interlock program under section 3805 (relating to
11 ignition interlock).

12 (2) For a second offense, to:

13 (i) undergo imprisonment for not less than five
14 days;

15 (ii) pay a fine of not less than \$300 nor more than
16 \$2,500;

17 (iii) attend an alcohol highway safety school
18 approved by the department; [and]

19 (iv) comply with all drug and alcohol treatment
20 requirements imposed under sections 3814 and 3815[.]; and

21 (v) participate in and comply with the ignition
22 interlock program under section 3805.

23 (3) For a third or subsequent offense, to:

24 (i) undergo imprisonment of not less than ten days;

25 (ii) pay a fine of not less than \$500 nor more than
26 \$5,000; [and]

27 (iii) comply with all drug and alcohol treatment
28 requirements imposed under sections 3814 and 3815[.]; and

29 (iv) participate in and comply with the ignition
30 interlock program under section 3805.

(b) High rate of blood alcohol; minors; commercial vehicles and school buses and school vehicles; accidents.--Except as set forth in subsection (c), an individual who violates section 3802(a)(1) where there was an accident resulting in bodily injury, serious bodily injury or death of any person or damage to a vehicle or other property or who violates section 3802(b), (e) or (f) shall be sentenced as follows:

(1) For a first offense, to:

(i) undergo imprisonment of not less than 48 consecutive hours;

(ii) pay a fine of not less than \$500 nor more than \$5,000;

(iii) attend an alcohol highway safety school approved by the department; [and]

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(v) participate in and comply with the ignition interlock program under section 3805.

(2) For a second offense, to:

(i) undergo imprisonment of not less than 30 days;

(ii) pay a fine of not less than \$750 nor more than \$5,000;

(iii) attend an alcohol highway safety school approved by the department; [and]

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(v) participate in and comply with the ignition interlock program under section 3805.

(3) For a third offense, to:

(i) undergo imprisonment of not less than 90 days;

(ii) pay a fine of not less than \$1,500 nor more than \$10,000; [and]

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(iv) participate in and comply with the ignition interlock program under section 3805.

(4) For a fourth or subsequent offense, to:

(i) undergo imprisonment of not less than one year;

(ii) pay a fine of not less than \$1,500 nor more than \$10,000; [and]

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(iv) participate in and comply with the ignition interlock program under section 3805.

(c) Incapacity; highest blood alcohol; controlled substances.--An individual who violates section 3802(a)(1) and refused testing of blood or breath or an individual who violates section 3802(c) or (d) shall be sentenced as follows:

(1) For a first offense, to:

(i) undergo imprisonment of not less than 72 consecutive hours;

(ii) pay a fine of not less than \$1,000 nor more than \$5,000;

(iii) attend an alcohol highway safety school approved by the department; [and]

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(v) participate in and comply with the ignition interlock program under section 3805.

(2) For a second offense, to:

1 (i) undergo imprisonment of not less than 90 days;
2 (ii) pay a fine of not less than \$1,500;
3 (iii) attend an alcohol highway safety school
4 approved by the department; [and]
5 (iv) comply with all drug and alcohol treatment
6 requirements imposed under sections 3814 and 3815[.]; and
7 (v) participate in and comply with the ignition
8 interlock program under section 3805.

9 (3) For a third or subsequent offense, to:

10 (i) undergo imprisonment of not less than one year;
11 (ii) pay a fine of not less than \$2,500; [and]
12 (iii) comply with all drug and alcohol treatment
13 requirements imposed under sections 3814 and 3815[.]; and
14 (iv) participate in and comply with the ignition
15 interlock program under section 3805.

16 * * *

17 (e) Suspension of operating privileges upon conviction.--

18 (1) The department shall suspend the operating privilege
19 of an individual under paragraph (2) upon receiving a
20 certified record of the individual's conviction of or an
21 adjudication of delinquency for:

22 (i) an offense under section 3802; or
23 (ii) an offense which is substantially similar to an
24 offense enumerated in section 3802 reported to the
25 department under Article III of the compact in section
26 1581 (relating to Driver's License Compact).

27 (2) Suspension under paragraph (1) shall be in
28 accordance with the following:

29 (i) Except as provided for in subparagraph (iii), 12
30 months for an ungraded misdemeanor or misdemeanor of the

second degree under this chapter.

(ii) 18 months for a misdemeanor of the first degree under this chapter.

(iii) [There shall be no suspension] 15 days for an ungraded misdemeanor under section 3802(a) where the person is subject to the penalties provided in subsection (a) and the person has no prior offense.

(iv) For suspensions imposed under paragraph (1)(ii), notwithstanding any provision of law or enforcement agreement to the contrary, all of the following apply:

(A) Suspensions shall be in accordance with Subchapter D of Chapter 15 (relating to [the] Driver's License Compact).

(B) In calculating the term of a suspension for an offense that is substantially similar to an offense enumerated in section 3802, the department shall presume that if the conduct reported had occurred in this Commonwealth then the person would have been convicted under section 3802(a)(2).

(v) Notwithstanding any other provision of law or enforcement agreement to the contrary, the department shall suspend the operating privilege of a driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section 3802.

* * *

Section 2. Section 3805(a), (b) and (c) of Title 75 are amended and the section is amended by adding a subsection to read:

1 § 3805. Ignition interlock.

2 (a) General rule.--If a person violates section 3802
3 (relating to driving under influence of alcohol or controlled
4 substance) [and, within the past ten years, has a prior offense
5 as defined in section 3806(a) (relating to prior offenses)] or
6 has had their operating privileges suspended pursuant to section
7 1547(b.1) (relating to chemical testing to determine amount of
8 alcohol or controlled substance) or 3808(c) (relating to
9 illegally operating a motor vehicle not equipped with ignition
10 interlock) and the person seeks a restoration of operating
11 privileges, the department shall require as a condition of
12 issuing a restricted license pursuant to this section that [the
13 following occur:

14 (1) Each] each motor vehicle owned by the person or
15 registered to the person has been equipped with an ignition
16 interlock system and remains so for the duration of the
17 restricted license period.

18 [(2) If there are no motor vehicles owned by the person
19 or registered to the person that the person so certify to the
20 department. A person so certifying shall be deemed to have
21 satisfied the requirement that all motor vehicles owned by
22 the person or registered to the person be equipped with an
23 ignition interlock system as required by this subsection.]

24 (b) Application for a restricted license.--A person subject
25 to this section shall apply to the department for an ignition
26 interlock restricted license under section 1951 (relating to
27 driver's license and learner's permit), which shall be clearly
28 marked to restrict the person to only driving, operating or
29 being in actual physical control of the movement of motor
30 vehicles equipped with an ignition interlock system[.] and shall

1 pay an application fee of \$50 to the department. The department
2 shall:

3 (1) Upon issuance of an ignition interlock restricted
4 license to any person, [the department shall] notify the
5 person that until the person obtains an unrestricted license
6 the person may not own, register, drive, operate or be in
7 actual physical control of the movement of any motor vehicle
8 which is not equipped with an ignition interlock system.

9 (2) Require that a person subject to the requirements of
10 subsection (j) maintain an ignition interlock restricted
11 license for the following periods:

12 (i) An individual sentenced under section 3804(a)(1)
13 or (b)(1) (relating to penalties) shall be required to
14 maintain a restricted license for six months.

15 (ii) An individual sentenced under section
16 3804(a)(2) or (b)(2) shall be required to maintain a
17 restricted license for 12 months.

18 (iii) An individual sentenced under section
19 3804(c)(1) shall be required to maintain a restricted
20 license for 18 months.

21 (iv) An individual sentenced under section
22 3804(a)(3), 3804(b)(3) or (4) or (c)(2) shall be required
23 to maintain a restricted license for 24 months.

24 (v) An individual sentenced under section 3804(c)(3)
25 shall be required to maintain a restricted license for 36
26 months.

27 (3) Take into consideration the requirements under 23
28 U.S.C. §§ 164 (relating to minimum penalties for repeat
29 offenders for driving while intoxicated or driving under the
30 influence) and 410 (relating to alcohol-impaired driving

countermeasures) and, notwithstanding section 3804(e)(2), may reduce the suspension times from 12 and 18 months to 45 days and apply restrictions as to driving purposes.

(c) Issuance of unrestricted license.--[One year from the date of issuance of an ignition interlock restricted license] The department shall not issue an unrestricted license until a person has presented proof that the person has completed the ignition interlock restricted license period as specified in this section and fulfilled all obligations under the rental agreement with the company that provided the ignition interlock device. Upon completion of the restricted license requirements under this section, if otherwise eligible, a person may be issued a replacement license under section 1951(d) that does not contain the ignition interlock system restriction.

* * *

(j) Ignition interlock program compliance.--A person with an ignition interlock restricted license shall report to the company responsible for servicing the ignition interlock system no less frequently than every 60 days at which time the data recorded by the device will be downloaded and the device and vehicle will be inspected for tampering or circumvention. Program compliance shall be based on monitor reports from calendar months, or partial months in the case of the first or last month. A violation of the program shall include:

(1) Any single event of tampering or circumvention in a monitor report.

(2) Any missed running retest where the vehicle is still running five minutes after the period allotted for the test in a monitor report.

(3) Any failed running retest where the vehicle is still

1 running five minutes after the period allotted for the test
2 in a monitor report.

3 (4) Failure to report for service of the interlock
4 device within five days after the scheduled service date.

5 (5) Three failed breath alcohol tests provided while
6 attempting to start the vehicle in a monitor report.

7 An individual shall not be assigned more than one violation per
8 monitor report. Each time an individual accumulates three
9 violations in 12 or less months the individual shall be subject
10 to a 90-day extension of the ignition interlock restricted
11 license requirement. An individual whose interlock restricted
12 license is extended by the department may petition the
13 department for a hearing to reconsider the extension. The
14 department shall develop rules defining necessary terms and
15 procedures and may consider extenuating and mitigating
16 circumstances in determining whether an extension to the
17 ignition interlock restricted license period should be assessed.

18 Section 3. Sections 3807(b)(2) and (d), 3808(c)(1) and
19 3814(2) of Title 75 are amended to read:

20 § 3807. Accelerated Rehabilitative Disposition.

21 * * *

22 (b) Evaluation and treatment.--

23 * * *

24 (2) The defendant shall be subject to a full assessment
25 for alcohol and drug addiction if any of the following apply:

26 (i) The evaluation under paragraph (1)(ii) indicates
27 a likelihood that the defendant is addicted to alcohol or
28 other drugs.

29 (ii) The defendant's blood alcohol content at the
30 time of the offense was at least [0.16%] 0.15%.

1 * * *

2 (d) Mandatory suspension of operating privileges and
3 ignition interlock requirement.--As a condition of participation
4 in an Accelerated Rehabilitative Disposition program, the court
5 shall order the defendant's license suspended as follows:

6 (1) There shall be no license suspension if the
7 defendant's blood alcohol concentration at the time of
8 testing was less than 0.10%.

9 (2) For [30] 15 days if the defendant's blood alcohol
10 concentration at the time of testing was at least 0.10% but
11 less than [0.16%] 0.15%.

12 (3) For [60] 45 days after which the defendant shall
13 participate in and comply with the ignition interlock program
14 under section 3805 (relating to ignition interlock) for 12
15 months if:

16 (i) the defendant's blood alcohol concentration at
17 the time of testing was [0.16%] 0.15% or higher;

18 (ii) the defendant's blood alcohol concentration is
19 not known;

20 (iii) an accident which resulted in bodily injury or
21 in damage to a vehicle or other property occurred in
22 connection with the events surrounding the current
23 offense; or

24 (iv) the defendant was charged pursuant to section
25 3802(d).

26 (4) For 90 days if the defendant was a minor at the time
27 of the offense.

28 * * *

29 § 3808. Illegally operating a motor vehicle not equipped with
30 ignition interlock.

1 * * *

2 (c) Suspension of operating privilege.--Notwithstanding
3 section 3805(c) and (i):

4 (1) If a person who is required to only drive, operate
5 or be in actual physical control of the movement of a motor
6 vehicle equipped with an ignition interlock system violates
7 this section, upon receipt of a certified record of the
8 conviction, the department shall not issue a replacement
9 license to the person under section 1951(d) (relating to
10 driver's license and learner's permit) [that does not contain
11 an ignition interlock restriction for a period of one year
12 from the date of conviction.] until the person has complied
13 with the requirements of section 3805.

14 * * *

15 § 3814. Drug and alcohol assessments.

16 If a defendant is convicted or pleads guilty or no contest to
17 a violation of section 3802 (relating to driving under influence
18 of alcohol or controlled substance), the following apply prior
19 to sentencing:

20 * * *

21 (2) The defendant shall be subject to a full assessment
22 for alcohol and drug addiction if any of the following
23 subparagraphs apply:

24 (i) The defendant, within ten years prior to the
25 offense for which sentence is being imposed, has been
26 sentenced for an offense under:

27 (A) section 3802;

28 (B) former section 3731; or

29 (C) an equivalent offense in another
30 jurisdiction.

1 (ii) Either:

2 (A) the evaluation under paragraph (1) indicates
3 there is a need for counseling or treatment; or

4 (B) the defendant's blood alcohol content at the
5 time of the offense was at least [0.16%] 0.15%.

6 * * *

7 Section 4. This act shall take effect as follows:

8 (1) The addition of 75 Pa.C.S. § 3805(j) shall take
9 effect in 365 days.

10 (2) The remainder of this act shall take effect in 60
11 days.