

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 67 Session of
2009

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WATSON, PASHINSKI, SHAPIRO, LENTZ AND MURT, JANUARY 26, 2009

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 27, 2009

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, defining "interactive wireless communications
3 device"; further providing for junior driver's license, for
4 learners' permits and for suspension of operating privilege;
5 prohibiting interactive wireless communications devices; and
6 further providing for accident report forms, for department
7 to compile, tabulate and analyze accident reports, for
8 television equipment, for restraint systems, for the offense
9 of careless driving, for applicability and uniformity of law
10 and for disposition and use of liquid fuels and fuels tax.

11 The General Assembly of the Commonwealth of Pennsylvania
12 declares that the part of this act that limits the number of
13 passengers a junior driver may transport in a motor vehicle at
14 one time may be referred to as Lacey's Law in honor of Lacey
15 Gallagher.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 102 of Title 75 of the Pennsylvania
19 Consolidated Statutes is amended by adding a definition to read:
20 § 102. Definitions.

1 Subject to additional definitions contained in subsequent
2 provisions of this title which are applicable to specific
3 provisions of this title, the following words and phrases when
4 used in this title shall have, unless the context clearly
5 indicates otherwise, the meanings given to them in this section:

6 * * *

7 "Interactive wireless communications device." Any wireless
8 electronic communications device that provides for voice or data
9 communication between two or more parties, including, but not
10 limited to, a mobile or cellular telephone, a text messaging
11 device, a personal digital assistant that sends or receives
12 messages or a laptop computer. THE TERM DOES NOT INCLUDE:



13 (1) AN AMATEUR RADIO;

14 (2) A CITIZENS BAND RADIO;

15 (3) A TWO-WAY RADIO COMMUNICATION DEVICE; OR

16 (4) A COMMUNICATION DEVICE THAT IS AFFIXED TO A MASS
17 TRANSIT VEHICLE, BUS OR SCHOOL BUS.

18 * * *

19 Section 2. Sections 1503(c), 1505(e) and 1538(e) of Title 75
20 are amended to read:

21 § 1503. Persons ineligible for licensing; license issuance to
22 minors; junior driver's license.

23 * * *

24 (c) Junior driver's license.--The department may issue a
25 junior driver's license to a person 16 or 17 years of age under
26 rules and regulations adopted by the department and subject to
27 the provisions of this section. A junior driver's license shall
28 automatically become a regular driver's license when the junior
29 driver attains 18 years of age.

30 (1) Except as provided in paragraph (2), no licensed

1 junior driver shall drive a vehicle upon a public highway
2 between 11 p.m. and 5 a.m. unless accompanied by a spouse 18
3 years of age or older, a parent or a person in loco parentis.

4 (2) A licensed junior driver conforming to the
5 requirements of section 1507 (relating to application for
6 driver's license or learner's permit by minor) may drive a
7 vehicle upon a public highway between 11 p.m. and 5 a.m.
8 between the junior driver's home and activity or employment
9 or in the course of the junior driver's activity or
10 employment if the junior driver is a member of a volunteer
11 fire company authorized by the fire chief to engage in
12 fighting fires, is engaged in public or charitable service or
13 is employed and is carrying an affidavit or certificate of
14 authorization signed by the junior driver's fire chief,
15 supervisor or employer indicating the probable schedule of
16 the junior driver's activities. Upon termination of the
17 junior driver's activity or employment, the junior driver
18 shall surrender the affidavit or certificate to the fire
19 chief, supervisor or employer. If the junior driver shall
20 fail to surrender the affidavit or certificate, the employer,
21 fire chief or supervisor shall immediately notify the
22 Pennsylvania State Police.

23 (2.1) Except as set forth in paragraph (2.2), a junior
24 driver may not drive a vehicle with more than one passenger
25 under 18 years of age.

26 (2.2) With parental or in loco parentis approval, a
27 junior driver may drive a vehicle with passengers under 18
28 years of age who are siblings or relatives who live in the
29 same dwelling as the junior driver.

30 (3) In addition to the other provisions of this title

1 relating to the suspension or revocation of operating
2 privileges, in the event that a licensed junior driver is
3 involved in an accident reportable under section 3746(a) for
4 which the junior driver is partially or fully responsible in
5 the opinion of the department or is convicted of any
6 violation of this title, the department may suspend the
7 operating privileges of the junior driver until the junior
8 driver attains 18 years of age or for a period of time not
9 exceeding 90 days.

10 (4) Any junior driver or other person violating any
11 provision of this subsection is guilty of a summary offense.
12 § 1505. Learners' permits.

13 * * *

14 (e) Authorization to test for driver's license and junior
15 driver's license.--A person with a learner's permit is
16 authorized to take the examination for a regular or junior
17 driver's license for the class of vehicle for which a permit is
18 held. Before a person under the age of 18 years may take the
19 examination for a junior driver's license, the minor must:

20 (1) Have held a learner's permit for that class of
21 vehicle for a period of six months.

22 (2) Present to the department a certification form
23 signed by the father, mother, guardian, person in loco
24 parentis or spouse of a married minor stating that the minor
25 applicant has completed [50] 65 hours of practical driving
26 experience, including no less than ten hours of nighttime
27 driving and five hours of inclement weather driving,
28 accompanied as required under subsection (b). Submission of a
29 certification shall not subject the parent, guardian, person
30 in loco parentis or spouse of a married minor to any

liability based upon the certification.

(3) Have the certification form completed when the minor is ready for the licensing examination. The certification form shall be developed by the department and will be provided by the department when the original application for a learner's permit is processed. The department will make this form readily available through the mail or electronic means.

* * *

§ 1538. School, examination or hearing on accumulation of points or excessive speeding.

* * *

(e) Additional suspension of operating privilege.--

(1) In addition to any other provisions of law relating to the suspension or revocation of operating privileges, a person's operating privileges shall be suspended under any of the following circumstances:

(i) Prior to reaching age 18, the person violates section 3362 (relating to maximum speed limits) by traveling 26 miles per hour or more over the posted speed limit and the violation results in a conviction, guilty plea or plea of no contest before or after the person reaches age 18.

(ii) The person accumulates six or more points under the provisions of section 1535 (relating to schedule of convictions and points) and the violations resulting in points accumulation were committed before the person reached age 18.

(2) The first suspension under paragraph (1) shall be for a period of 90 days with every subsequent suspension

1 under paragraph (1) to be for a period of 120 days.
2 Suspensions under paragraph (1) shall be imposed
3 consecutively to each other and to any other suspension. A
4 suspension under paragraph (1) shall be considered a
5 subsequent suspension even if it is imposed contemporaneously
6 with a first suspension imposed under paragraph (1). A
7 suspension under this paragraph shall be in lieu of a
8 suspension under subsection (d)(1).

9 Section 3. Title 75 is amended by adding a section to read:

10 § 3316. Prohibiting interactive wireless communications
11 devices.

12 (a) Drivers subject to restriction.--No driver with a
13 learners' permit or junior driver's license shall drive a motor
14 vehicle on a highway or trafficway in this Commonwealth while
15 using an interactive wireless communications device.

16 ~~(b) Exceptions.--This section shall not apply to persons who~~ ←

17 ~~(B) EXCEPTIONS.--THIS SECTION SHALL NOT APPLY TO:~~ ←

18 (1) PERSONS WHO use an interactive wireless
19 communications device to contact a 511 service or 911 system
20 ~~for the purpose of reporting an accident or an emergency or~~ ←
21 ~~obtaining directions.~~

22 (2) EMERGENCY SERVICE PERSONNEL WHO ARE USING AN ←
23 INTERACTIVE WIRELESS COMMUNICATION DEVICE IN THE PERFORMANCE
24 OF OFFICIAL DUTIES.

25 (c) Seizure.--The provisions of this section shall not be
26 construed as authorizing the seizure or forfeiture of an
27 interactive wireless communications device, unless otherwise
28 provided by law.

29 (d) Penalty.--A person who violates subsection (a) commits a
30 summary offense and shall, upon conviction, be sentenced to pay

1 a fine of \$100.

2 (e) Definitions.--As used in this section, the following
3 words and phrases shall have the meanings given to them in this
4 subsection:

5 "511" or "511 service." Three-digit telecommunications
6 dialing to access an intelligent transportation system traveler
7 information service provided in this Commonwealth in accordance
8 with the Federal Communications Commission and the United States
9 Department of Transportation.

10 "911." The number used by a public agency located in whole
11 or in part within this Commonwealth authorized by law to provide
12 emergency telephone service to access firefighting, law
13 enforcement, ambulance, emergency medical or other emergency
14 services.

15 Section 4. Sections 3714 and 3752(a) of Title 75 are
16 amended to read:

17 § 3714. Careless driving.

18 (a) General rule.--Any person who drives a vehicle in
19 careless disregard for the safety of persons or property is
20 guilty of careless driving, a summary offense.

21 (b) Unintentional death.--If the person who violates this
22 section unintentionally causes the death of another person as a
23 result of the violation, the person shall, upon conviction, be
24 sentenced to pay a fine of \$500.

25 (c) Serious bodily injury.--If the person who violates this
26 section unintentionally causes the serious bodily injury of
27 another person as a result of the violation, the person shall,
28 upon conviction, be sentenced to pay a fine of \$250.

29 ~~(c.1) Additional penalty for distracted driver.~~

30 ~~(1) Any person who violates this section and at the time~~



~~of the violation is distracted by the use of any device, including, but not limited to, an electronic, electrical, mechanical or personal grooming device, food, drink, book or printed material shall, in addition to any other penalty imposed, upon conviction, be sentenced to pay a fine of \$50.~~

~~(2) No person shall be convicted under paragraph (1) unless the person is also convicted under subsection (a) for a violation which occurred at the same time. No costs as described under 42 Pa.C.S. § 1725.1 (relating to costs) shall be imposed for a conviction under this subsection. Conviction under this subsection shall not constitute a moving violation.~~

~~(c.2) Civil actions.~~

~~(1) In no event shall a violation or alleged violation under subsection (c.1) be:~~

~~(i) used as evidence in a trial of any civil action, nor shall any jury in a civil action be instructed that any conduct constitutes or may be interpreted by them to constitute a violation under subsection (c.1);~~

~~(ii) considered as contributory negligence; or~~

~~(iii) admissible as evidence in the trial of any civil action.~~

~~(2) This section shall not be construed to impose any legal obligation upon or impute any civil liability whatsoever to an owner, employer, manufacturer, dealer or person engaged in the business of renting or leasing vehicles to the public to inform the public about the provisions of subsection (c.1).~~

~~(c.3) Criminal proceedings. Evidence of a violation under subsection (c.1) is not admissible as evidence in a criminal~~

~~proceeding except in a proceeding for a violation of subsection (c.1). No criminal proceeding for the crime of homicide by vehicle shall be brought on the basis of a violation under subsection (c.1).~~

~~(c.4) Insurance. An insurer may not charge an insured who has been convicted under subsection (c.1) a higher premium for a policy of insurance in whole or in part by reason of that conviction.~~

(C.1) INCREASED FINE FOR DISTRACTED DRIVER.--UPON CONVICTION FOR A VIOLATION OF THIS SECTION WHERE AT THE TIME OF THE VIOLATION THE PERSON MADE USE OF ANY DEVICE NOT ASSOCIATED WITH THE SAFE OPERATION OF THE VEHICLE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

- (1) an interactive wireless communications device;
- (2) an electronic, electrical or mechanical device;
- (3) a personal grooming device;
- (4) food;
- (5) drink; and
- (6) any printed material,

THE FINE IMPOSED FOR THE VIOLATION SHALL BE INCREASED BY \$50.

(c.2) Effect of increase in fine.--The fact that an increase in fine was imposed pursuant to subsection (c.1) shall not be:

(1) Admissible as evidence in any civil or criminal proceeding.

(2) Used in any manner whatsoever by an insurer to charge an insured a higher premium for a policy of insurance.

(C.3) CONSTRUCTION.--SUBSECTION (C.1) SHALL NOT BE CONSTRUED TO IMPOSE ANY LEGAL OBLIGATION UPON ANY PERSON TO INFORM ANY DRIVER OR THE PUBLIC AT LARGE ABOUT THE PROVISIONS OF THE SUBSECTION.

(d) [Definition.--As used in this section, "serious bodily injury" means any] Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Distracted." Having a person's attention diverted from operating a vehicle by the use of any device, including, but not limited to, an electronic, electrical, mechanical or personal grooming device, food, drink, book or printed material.

"Serious bodily injury." Any bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

§ 3752. Accident report forms.

(a) Form and content.--The department shall prepare and upon request supply to all law enforcement agencies and other appropriate agencies or individuals, forms for written accident reports as required in this subchapter suitable with respect to the persons required to make the reports and the purposes to be served. The written report forms shall call for sufficiently detailed information to disclose with reference to a vehicle accident the cause, conditions then existing and the persons and vehicles involved[.], including whether the driver of the vehicle was using an interactive wireless communications device when the accident occurred, and such other information as the department may require. Reports for use by the drivers and owners shall also provide for information relating to financial responsibility.

* * *

Section 5. Section 3753 of Title 75 is amended by adding a subsection to read:

§ 3753. Department to compile, tabulate and analyze accident reports.

* * *

(b.1) Report on interactive wireless communications devices.--The department shall annually compile and make available to the public information submitted on an accident report concerning interactive wireless communications devices in motor vehicles involved in traffic accidents. The report shall note whether the driver of the motor vehicle was using an interactive wireless communications device when the accident occurred. The data shall be included in a report submitted to the Transportation Committee of the Senate and the Transportation Committee of the House of Representatives.

* * *

Section 6. Sections 4527 , 4581(a) and (b) and 6101 of Title 75 are amended to read:

§ 4527. [Television] Video receiving equipment.

(a) General rule.--[No] Except as provided in subsection (c), no person shall drive a motor vehicle [operated on a highway shall be] equipped with [television-type] any image display device, video receiving equipment, including a receiver, a video monitor or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications or similar equipment which is located in the motor vehicle at any point forward of the back of the driver's seat [or otherwise], or which is visible, directly or indirectly, to the driver while operating the motor vehicle.

(a.1) Except as provided in subsection (b), no person may install in a motor vehicle an image display device intended to

1 be visible to a driver in the normal driving position when the
2 vehicle is in motion and when restrained by the safety seat belt
3 system adjusted in accordance with the manufacturer's
4 recommendations.

5 (b) Exception.--This section shall not apply to the
6 following:

7 (1) [Television-type receiving equipment] Image display
8 devices in a vehicle used exclusively for safety or law
9 enforcement purposes as approved by the Pennsylvania State
10 Police.

11 (2) [Electronic displays] Image display devices used in
12 conjunction with in-vehicle navigation systems, related
13 traffic, road and weather information.

14 (3) Image display devices that provide vehicle
15 information related to the driving task or to enhance or
16 supplement the driver's view forward, behind or to the sides
17 of the motor vehicle or permit the driver to monitor vehicle
18 occupants behind the driver.

19 (4) Image display devices that do not display images to
20 the driver while the vehicle is in motion.

21 (5) Image display devices which display an image while a
22 vehicle is parked.

23 (c) Definitions.--As used in this section, the term "image
24 display device" means equipment capable of displaying to the
25 driver of the motor vehicle:

26 (1) a broadcast television image; or

27 (2) a visual image, other than text, from a digital
28 video disc or other storage device.

29 § 4581. Restraint systems.

30 (a) Occupant protection.--

1 (1) Any person who is operating a passenger car, Class I
2 truck, Class II truck, classic motor vehicle, antique motor
3 vehicle or motor home and who transports a child under four
4 years of age anywhere in the motor vehicle, including the
5 cargo area, shall fasten such child securely in a child
6 passenger restraint system, as defined in subsection (d).
7 This subsection shall apply to all persons while they are
8 operators of motor vehicles where a seating position is
9 available which is equipped with a seat safety belt or other
10 means to secure the systems or where the seating position was
11 originally equipped with seat safety belts.

12 (1.1) Any person who is operating a passenger car, Class
13 I truck, Class II truck, classic motor vehicle, antique motor
14 vehicle or motor home and who transports a child four years
15 of age or older but under eight years of age anywhere in the
16 motor vehicle, including the cargo area, shall fasten such
17 child securely in a fastened safety seat belt system and in
18 an appropriately fitting child booster seat, as defined in
19 subsection (d). This paragraph shall apply to all persons
20 while they are operators of motor vehicles where a seating
21 position is available which is equipped with a seat safety
22 belt or other means to secure the systems or where the
23 seating position was originally equipped with seat safety
24 belts. [A conviction under this paragraph by State or local
25 law enforcement agencies shall occur only as a secondary
26 action when a driver of a motor vehicle has been convicted of
27 violating any other provision of this title.]

28 (2) [Except for children under eight years of age and
29 except as provided in paragraphs (1) and (1.1), each]

30 (i) The driver [and front seat occupant] of a

1 passenger car, Class I truck, Class II truck or motor
2 home operated in this Commonwealth shall [wear] secure or
3 cause to be secured in a properly adjusted and fastened
4 safety seat belt system ~~the driver and every vehicle~~ ←
5 ~~occupant older than eight years of age and~~ FOR THE ←
6 DRIVER, IF UNDER 18 YEARS OF AGE, AND EVERY VEHICLE
7 OCCUPANT EIGHT YEARS OF AGE OR OLDER BUT under 18 years
8 of age. [A conviction under this paragraph by State or
9 local law enforcement agencies shall occur only as a
10 secondary action when a driver of a motor vehicle has
11 been convicted of any other provision of this title. The
12 driver of a passenger automobile shall secure or cause to
13 be secured in a properly adjusted and fastened safety
14 seat belt system any occupant who is eight years of age
15 or older and less than 18 years of age.]

16 (ii) Except for children under 18 years of age and
17 except as provided in paragraphs (1) and (1.1) and
18 subparagraph (i), each driver and front seat occupant of
19 a passenger car, Class I truck, Class II truck, classic
20 motor vehicle, antique motor vehicle or motor home
21 operated in this Commonwealth shall wear a properly
22 adjusted and fastened safety seat belt system.

23 (iii) This paragraph shall not apply to:

24 [(i)] (A) A driver or front seat occupant of any
25 vehicle manufactured before July 1, 1966.

26 [(ii)] (B) A driver or front seat occupant who
27 possesses a written verification from a physician
28 that he is unable to wear a safety seat belt system
29 for physical or medical reasons, or from a
30 psychiatrist or other specialist qualified to make an

1 informed judgment that he is unable to wear a safety
2 seat belt system for psychological reasons.

3 [(iii)] (C) A rural letter carrier while
4 operating any motor vehicle during the performance of
5 his duties as a United States postal service rural
6 letter carrier only between the first and last
7 delivery points.

8 [(iv)] (D) A driver who makes frequent stops and
9 is traveling less than 15 miles per hour for the
10 purpose of delivering goods or services while in the
11 performance of his duties and only between the first
12 and last delivery points.

13 A violation of this paragraph shall not be subject to the
14 assessment of any points under section 1535 (relating to
15 schedule of convictions and points).

16 (3) A driver who is under 18 years of age may not
17 operate a motor vehicle in which the number of passengers
18 exceeds the number of available safety seat belts in the
19 vehicle.

20 (b) Offense.--Anyone who fails to comply with the provisions
21 of subsection (a)(1) or (1.1) shall be guilty of a summary
22 offense with a maximum fine of \$100. The court imposing and
23 collecting any such fines shall transfer the fines thus
24 collected to the State Treasurer for deposit in the Child
25 Passenger Restraint Fund, pursuant to section 4582 (relating to
26 Child Passenger Restraint Fund). Anyone who violates subsection
27 (a)(2) or (3) commits a summary offense and shall, upon
28 conviction, be sentenced to pay a fine of \$10. No person shall
29 be convicted of a violation of subsection [(a)(2)] ~~(a)(2) or (3)~~
30 (A)(2)(II) unless the person is also convicted of another



violation of this title which occurred at the same time. No costs as described in 42 Pa.C.S. § 1725.1 (relating to costs) shall be imposed for summary conviction of subsection (a)(2) or (3). Conviction under this subsection shall not constitute a moving violation.

* * *

§ 6101. Applicability and uniformity of title.

(a) Requirement.--The provisions of this title shall be applicable and uniform throughout this Commonwealth and in all political subdivisions in this Commonwealth, and no local authority shall enact or enforce any ordinance on a matter covered by the provisions of this title unless expressly authorized.

(b) Sanctions.--When a court of competent jurisdiction determines that an ordinance adopted by a local authority is in violation of subsection (a), the local authority is subject to the following sanctions until the local authority repeals or substantially amends the ordinance to remove the language that was found to be in violation of subsection (a):

(1) Suspension of capital expenditures for bridges and highways.

(2) Suspension of allocation under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

(3) Suspension of allocation and apportionment under section 9010(c.1) (relating to disposition and use of tax).

(c) Suspended funds.--Upon notification that the local authority has repealed or substantially amended the ordinance to remove the language that was found to be in violation of subsection (a), the department shall immediately end all

1 sanctions against the local authority and return all suspended
2 funds to the local authority.

3 Section 7. Section 9010(c) introductory paragraph of Title
4 75 is amended and the section is amended by adding subsections
5 to read:

6 § 9010. Disposition and use of tax.

7 * * *

8 (c) Allocation of money.--[The] Except as set forth in
9 subsection (c.1), the county commissioners may allocate and
10 apportion money from the County Liquid Fuels Tax Fund to the
11 political subdivisions within the county in the ratio as
12 provided in this subsection. When the unencumbered balance in
13 the County Liquid Fuels Tax Fund is greater than the receipts
14 for the 12 months immediately preceding the date of either of
15 the reports, the county commissioners shall notify the political
16 subdivisions to make application within 90 days for
17 participation in the redistribution of the unencumbered balance.
18 Redistribution shall be effected within 120 days of the date of
19 either of the reports. The county commissioners may distribute
20 the unencumbered balance in excess of 50% of the receipts for
21 the previous 12 months to the political subdivisions making
22 application in the following manner:

23 * * *

24 (c.1) Forfeiture.--All money allocated under subsection (c)
25 to a political subdivision which, under section 6109(a)
26 (relating to specific powers of department and local
27 authorities), violates section 6101(a) (relating to
28 applicability and uniformity of title) shall be withheld by the
29 county during the period of time in which the municipality is in
30 violation of section 6101(a).

1 (c.2) Release funds.--Upon notification that the local
2 authority has repealed or substantially amended the ordinance to
3 remove the language that was found to be in violation of section
4 6101(a), the county shall release those funds withheld by the
5 county and due the local agency.

6 * * *

7 Section 8. This act shall take effect as follows:

8 (1) The amendment or addition of 75 Pa.C.S. § 9010(c)
9 and (c.1) shall take effect January 1, 2010.

10 (2) This section shall take effect immediately.

11 (3) The remainder of this act shall take effect in 60
12 days.