

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2070 Session of
2009

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BRIGGS, MARSHALL, BEAR, VULAKOVICH, SANTARSIERO, BRADFORD AND
GALLOWAY, NOVEMBER 9, 2009

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JANUARY 26, 2010

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75
2 (Vehicles) of the Pennsylvania Consolidated Statutes, further
3 providing for Commonwealth portion of fines, etc. and for
4 municipal corporation portion of fines, etc.; defining
5 "interactive wireless communication device"; prohibiting use
6 of interactive wireless communication device; and further
7 providing for duty of driver in construction and maintenance
8 areas or on highway safety corridors, for duty of driver in
9 emergency response areas, for accident report forms, for
10 department to compile, tabulate and analyze accident reports
11 and for applicability and uniformity of title.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Sections 3571(b) and 3573(b) of Title 42 of the
15 Pennsylvania Consolidated Statutes are amended to read:

16 § 3571. Commonwealth portion of fines, etc.

17 * * *

18 (b) Vehicle offenses.--

19 (1) All fines, forfeited recognizances and other

1 forfeitures imposed, lost or forfeited in connection with
2 matters arising under Chapter 77 of Title 75 (relating to
3 snowmobiles) shall unless otherwise provided in Chapter 77 of
4 Title 75 be payable to the Commonwealth.

5 (2) Except as provided in [paragraph (4)] paragraphs (4)
6 and (5), when prosecution under any other provision of Title
7 75 (relating to vehicles) is the result of State Police
8 action, all fines, forfeited recognizances and other
9 forfeitures imposed, lost or forfeited shall be payable to
10 the Commonwealth, for credit to the Motor License Fund. One-
11 half of the revenue shall be paid to municipalities in the
12 same ratio provided in section 4 of the [act of June 1, 1956
13 (P.L.1944, No.655), relating to partial allocation of liquid
14 fuels and fuel use tax proceeds] act of June 1, 1956 (1955
15 P.L.1944, No.655), referred to as the Liquid Fuels Tax
16 Municipal Allocation Law.

17 (3) Except as provided in paragraph (5) and section 3573
18 (relating to municipal corporation portion of fines, etc.),
19 when prosecution under any other provision of Title 75 is the
20 result of local police action, one-half of all fines,
21 forfeited recognizances and other forfeitures imposed, lost
22 or forfeited shall be payable to the Commonwealth, for credit
23 to the Motor License Fund.

24 (4) When prosecution under 75 Pa.C.S. § 3802 (relating
25 to driving under influence of alcohol or controlled
26 substance) is the result of State Police action, 50% of all
27 fines, forfeited recognizances and other forfeitures imposed,
28 lost or forfeited shall be payable to the Commonwealth, for
29 credit to the Motor License Fund, and 50% shall be payable to
30 the county which shall be further divided as follows:

1 (i) Fifty percent of the moneys received shall be
2 allocated to the appropriate county authority which
3 implements the county drug and alcohol program to be used
4 solely for the purposes of aiding programs promoting drug
5 abuse and alcoholism prevention, education, treatment and
6 research.

7 (ii) Fifty percent of the moneys received shall be
8 used for expenditures incurred for county jails, prisons,
9 workhouses and detention centers.

10 (5) When prosecution under 75 Pa.C.S. § 3316 (relating
11 to prohibiting use of interactive wireless communication
12 device) is the result of Pennsylvania State Police action,
13 25% of all revenue from fines shall be paid to municipalities
14 in the same ratio provided in section 4 of the Liquid Fuels
15 Tax Municipal Allocation Law, and 75% of the revenue from the
16 fines shall be allocated and are appropriated on a continuing
17 basis to the Department of Transportation for Statewide
18 public education and awareness programs to combat distracted
19 driving and driving under the influence and promote awareness
20 under 75 Pa.C.S. § 3316(f).

21 * * *

22 § 3573. Municipal corporation portion of fines, etc.

23 * * *

24 (b) Vehicle offenses.--

25 (1) When prosecution under the provisions of Title 75
26 (relating to vehicles) for parking is the result of local
27 police action, all fines, forfeited recognizances and other
28 forfeitures imposed, lost or forfeited shall be payable to
29 the municipal corporation under which the local police are
30 organized.

1 (2) Except as provided in [paragraph (3)] paragraphs (3)
2 and (4), when prosecution under any other provision of Title
3 75 (except Chapter 77 (relating to snowmobiles)) is the
4 result of local police action, one-half of all fines,
5 forfeited recognizances and other forfeitures imposed, lost
6 or forfeited shall be payable to the municipal corporation
7 under which the local police are organized.

8 (3) When prosecution under 75 Pa.C.S. § 3802 (relating
9 to driving under influence of alcohol or controlled
10 substance) is the result of local police action, 50% of all
11 fines, forfeited recognizances and other forfeitures imposed,
12 lost or forfeited shall be payable to the municipal
13 corporation under which the local police are organized, and
14 50% shall be payable to the county which shall be further
15 divided as follows:

16 (i) Fifty percent of the moneys received shall be
17 allocated to the appropriate county authority which
18 implements the county drug and alcohol program to be used
19 solely for the purposes of aiding programs promoting drug
20 abuse and alcoholism prevention, education, treatment and
21 research.

22 (ii) Fifty percent of the moneys received shall be
23 used for expenditures incurred for county jails, prisons,
24 workhouses and detention centers.

25 (4) When prosecution under 75 Pa.C.S. § 3316 (relating
26 to prohibiting use of interactive wireless communication
27 device) is the result of local police action, 25% of all
28 revenue from fines shall be payable to the municipal
29 corporation under which the local police are organized, and
30 75% shall be payable and is appropriated on a continuing

1 basis to the Department of Transportation for Statewide
2 public education and awareness programs to combat driving
3 under the influence and distracted driving as established by
4 75 Pa.C.S. § 3316(f).

5 * * *

6 Section 2. Section 102 of Title 75 is amended by adding a
7 definition to read:

8 § 102. Definitions.

9 Subject to additional definitions contained in subsequent
10 provisions of this title which are applicable to specific
11 provisions of this title, the following words and phrases when
12 used in this title shall have, unless the context clearly
13 indicates otherwise, the meanings given to them in this section:

14 * * *

15 "Interactive wireless communication device." A wireless
16 telephone, personal digital assistant, smart phone, portable or
17 mobile computer, or similar device which can be used for VOICE ←
18 COMMUNICATION, texting, e-mailing, browsing the Internet or
19 instant messaging, but. THE TERM does not include a device being ←
20 used exclusively as a global positioning or navigation system, ←
21 or a system or device that is physically or electronically
22 integrated into the vehicle.

23 * * *

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

25 § 3316. Prohibiting use of interactive wireless communication
26 device.

27 (a) Driver restrictions.--

28 (1) No person shall drive a motor vehicle upon a roadway
29 or trafficway in this Commonwealth while using an interactive
30 wireless communication device for a purpose other than:

1 (i) voice communication through the use of an
2 interactive wireless communications device while in
3 hands-free mode;

4 (ii) reading, selecting or entering a telephone
5 number or name into an interactive wireless communication
6 device for the purpose of ~~making a telephone call~~ VOICE ←
7 COMMUNICATION; or

8 (iii) utilizing a global positioning or navigation
9 system.

10 (2) No person with a learner's permit or junior driver's
11 license shall drive a motor vehicle upon a roadway or
12 trafficway in this Commonwealth while using an interactive
13 wireless communication device.

14 (b) Exceptions.--This section shall not apply to:

15 (1) A driver using an interactive wireless communication
16 device to contact a 911 system or wireless E-911 service, as
17 defined in the act of July 9, 1990 (P.L.340, No.78), known as
18 the Public Safety Emergency Telephone Act.

19 (2) A driver using an interactive wireless communication
20 device when the vehicle is stopped due to ~~traffic being~~ ←
21 ~~obstructed and the driver has~~ A TRAFFIC OBSTRUCTION AND the ←
22 motor vehicle transmission IS in neutral or park. ←

23 (3) Operators of emergency vehicles who use an
24 interactive wireless communications device for voice
25 communication for the purpose of responding to an emergency
26 while engaged in the performance of their official duties.

27 (4) Volunteer emergency responders who use an
28 interactive wireless communications device for voice
29 communication for the purpose of responding to an emergency
30 while engaged in the performance of their official duties.

1 (c) Seizure.--The provisions of this section shall not be
2 construed as authorizing the seizure or forfeiture of an
3 interactive wireless communication device.

4 (d) Penalty.--

5 (1) A person who violates subsection (a) commits a
6 summary offense and shall, upon conviction, be sentenced to
7 pay a fine of \$50.

8 (2) A person who violates subsection (a) while passing
9 through a school zone, as defined and provided under the
10 regulations of the department, commits a summary offense and
11 shall, upon conviction, be sentenced to pay a fine of \$100.
12 An official traffic-control device shall indicate the
13 beginning and end of each school zone to traffic approaching
14 in each direction. Establishment of a school zone, including
15 its location and hours of operation, shall be approved by the
16 department.

17 (e) Public education and awareness program.--The department
18 shall develop and maintain Statewide public education and
19 awareness programs to combat distracted driving and driving
20 under the influence and promote awareness of the provisions of
21 this section subject to available funding.

22 (f) Guidelines.--The department shall, in consultation with
23 the Department of Education and the Pennsylvania State Police,
24 promulgate guidelines for the implementation of subsection (e)
25 within six months of the effective date of this section.

26 (g) Insurance.--An insurer may not charge an insured who has
27 been convicted under this section a higher premium for a policy
28 of insurance in whole or in part by reason of that conviction.

29 (h) Department to compile report.--The department shall
30 annually compile and make available to the Transportation

Committee of the Senate and the Transportation Committee of the House of Representatives a report detailing the public education efforts to combat distracted driving and driving under the influence and promote awareness of the provisions of this section.

(i) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Hands-free mode." The use of an interactive wireless communications device that allows the user to engage in communication without the use of either hand by means of an internal feature or function or an attachment or device.

"Volunteer emergency responder." Any of the following:

(1) A member of a volunteer ambulance service as defined in section 102 of the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

(2) A member of a volunteer fire company as defined in section 102 of the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

(3) A member of a volunteer rescue company as defined in section 102 of the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

Section 4. Sections 3326(c), 3327(e) and 3752(a) of Title 75 are amended to read:

§ 3326. Duty of driver in construction and maintenance areas or on highway safety corridors.

* * *

(c) Fines to be doubled.--For any of the following violations, when committed in an active work zone manned by

workers acting in their official capacity or on a highway safety corridor designated under section 6105.1 (relating to designation of highway safety corridors), the fine shall be double the usual amount:

Section 3102 (relating to obedience to authorized persons directing traffic).

Section 3111 (relating to obedience to traffic-control devices).

Section 3112 (relating to traffic-control signals).

Section 3114 (relating to flashing signals).

Section 3302 (relating to meeting vehicle proceeding in opposite direction).

Section 3303 (relating to overtaking vehicle on the left).

Section 3304 (relating to overtaking vehicle on the right).

Section 3305 (relating to limitations on overtaking on the left).

Section 3306 (relating to limitations on driving on left side of roadway).

Section 3307 (relating to no-passing zones).

Section 3309 (relating to driving on roadways laned for traffic).

Section 3310 (relating to following too closely).

Section 3316(a) (relating to prohibiting use of interactive wireless communication device).

Section 3323 (relating to stop signs and yield signs).

Section 3326 (relating to duty of driver in construction and maintenance areas or on highway safety corridors).

Section 3361 (relating to driving vehicle at safe speed).

1 Section 3362 (relating to maximum speed limits).
2 Section 3702 (relating to limitations on backing).
3 Section 3714 (relating to careless driving).
4 Section 3736 (relating to reckless driving).
5 Section 3802 (relating to driving under influence of
6 alcohol or controlled substance).

7 * * *

8 § 3327. Duty of driver in emergency response areas.

9 * * *

10 (e) Fines to be doubled.--In addition to any penalty as
11 provided in subsection (b), the fine for any of the following
12 violations when committed in an emergency response area manned
13 by emergency service responders shall be double the usual
14 amount:

15 Section 3102 (relating to obedience to authorized persons
16 directing traffic).

17 Section 3111 (relating to obedience to traffic-control
18 devices).

19 Section 3114 (relating to flashing signals).

20 Section 3302 (relating to meeting vehicle proceeding in
21 opposite direction).

22 Section 3303 (relating to overtaking vehicle on the
23 left).

24 Section 3304 (relating to overtaking vehicle on the
25 right).

26 Section 3305 (relating to limitations on overtaking on
27 the left).

28 Section 3306 (relating to limitations on driving on left
29 side of roadway).

30 Section 3307 (relating to no-passing zones).

1 Section 3310 (relating to following too closely).

2 Section 3312 (relating to limited access highway
3 entrances and exits).

4 Section 3316(a) (relating to prohibiting use of
5 interactive wireless communication device).

6 Section 3323 (relating to stop signs and yield signs).

7 Section 3325 (relating to duty of driver on approach of
8 emergency vehicle).

9 Section 3361 (relating to driving vehicle at safe speed).

10 Section 3707 (relating to driving or stopping close to
11 fire apparatus).

12 Section 3710 (relating to stopping at intersection or
13 crossing to prevent obstruction).

14 Section 3714 (relating to careless driving).

15 Section 3736 (relating to reckless driving).

16 Section 3802 (relating to driving under influence of
17 alcohol or controlled substance).

18 * * *

19 § 3752. Accident report forms.

20 (a) Form and content.--The department shall prepare and upon
21 request supply to all law enforcement agencies and other
22 appropriate agencies or individuals, forms for written accident
23 reports as required in this subchapter suitable with respect to
24 the persons required to make the reports and the purposes to be
25 served. The written report forms shall call for sufficiently
26 detailed information to disclose with reference to a vehicle
27 accident the cause, conditions then existing and the persons and
28 vehicles involved, including whether the driver of the vehicle
29 was using an interactive wireless communication device when the
30 accident occurred, and such other information as the department

1 may require. Reports for use by the drivers and owners shall
2 also provide for information relating to financial
3 responsibility.

4 * * *

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

7 § 3753. Department to compile, tabulate and analyze accident
8 reports.

9 * * *

10 (b.1) Report on interactive wireless communication
11 devices.--The department shall annually compile and make
12 available to the public information submitted on an accident
13 report concerning the use of interactive wireless communication
14 devices in motor vehicles involved in traffic accidents. The
15 report shall note whether the driver of the motor vehicle was
16 using an interactive wireless communication device when the
17 accident occurred. This data shall also be included in an annual
18 report submitted BY THE DEPARTMENT to the Transportation
19 Committee of the Senate and the Transportation Committee of the
20 House of Representatives.

←

21 * * *

22 Section 6. Section 6101 of Title 75 is amended to read:

23 § 6101. Applicability and uniformity of title.

24 The provisions of this title shall be applicable and uniform
25 throughout this Commonwealth and in all political subdivisions
26 in this Commonwealth, and no local authority shall enact or
27 enforce any ordinance on a matter covered by the provisions of
28 this title unless expressly authorized. A person charged with
29 violating an ordinance determined to be enacted or enforced in
30 violation of this section shall be awarded court costs and

1 attorneys fees incurred as a result of defending against the
2 charge.

3 Section 7. This act shall take effect in 60 days.