

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2246 Session of 2010

INTRODUCED BY TALLMAN, READSHAW, BARRAR, BELFANTI, BOBACK, D. COSTA, EVERETT, FABRIZIO, FARRY, GEORGE, GILLESPIE, GROVE, HESS, HICKERNELL, HORNAMAN, KNOWLES, KORTZ, MARSHALL, MATZIE, MILLARD, MILLER, MOUL, MURT, OBERLANDER, PASHINSKI, ROAE, SAYLOR, SIPTROTH, SOLOBAY, SWANGER, J. TAYLOR, VULAKOVICH, BEYER AND HENNESSEY, FEBRUARY 8, 2010

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 28, 2010

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for definitions; PROVIDING FOR ←
3 PERMISSIBLE ARGUMENT AS TO AMOUNT OF DAMAGES; FURTHER
4 PROVIDING for duty of driver in emergency response areas, for
5 careless driving, for snow and ice dislodged or falling from
6 moving vehicle and for sentencing for homicide by vehicle;
7 providing for the offense of aggravated assault by vehicle;
8 further providing for aggravated assault by vehicle while
9 driving under the influence, for accident involving death or
10 personal injury while not properly licensed and for accident
11 scene clearance; and imposing penalties.

12 RESOLVED, That this act may be referred to as the Sgt.

13 Michael C. Weigand Law.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 102 of Title 75 of the Pennsylvania
17 Consolidated Statutes is amended by adding definitions to read:
18 § 102. Definitions.

19 Subject to additional definitions contained in subsequent
20 provisions of this title which are applicable to specific

1 provisions of this title, the following words and phrases when  
2 used in this title shall have, unless the context clearly  
3 indicates otherwise, the meanings given to them in this section:

4 \* \* \*

5 "Emergency service responder." An individual acting in an  
6 official capacity as any of the following:

7 (1) A police officer.

8 (2) A sheriff or deputy sheriff.

9 (3) A coroner or deputy coroner.

10 (4) A firefighter.

11 (5) Fire police.

12 (6) A fire marshal.

13 (7) A medical examiner or deputy medical examiner.

14 (8) Rescue personnel.

15 (9) Ambulance personnel.

16 (10) Towing and recovery personnel.

17 (11) Highway maintenance and construction personnel.

18 (12) Hazardous material response team member.

19 (13) Emergency medical services personnel.

20 \* \* \*

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

25 SECTION 1.1. TITLE 75 IS AMENDED BY ADDING A SECTION TO  
26 READ:

27 § 1794.1. PERMISSIBLE ARGUMENT AS TO AMOUNT OF DAMAGES.

28 (A) GENERAL RULE.--IN ANY ACTION FOR DAMAGES AGAINST A  
29 TORTFEASOR, OR IN ANY UNINSURED OR UNDERINSURED MOTORIST  
30 PROCEEDING, ARISING OUT OF THE MAINTENANCE OR USE OF A MOTOR



1 VEHICLE AND TRIED BEFORE A JUDGE, JURY OR OTHER TRIBUNAL, A  
2 PARTY MAY MAKE ANY OF THE FOLLOWING ARGUMENTS DURING CLOSING  
3 ARGUMENT IF THE PARTY COMPLIED WITH SUBSECTION (B) OR IF THE  
4 JUDGE, JURY OR OTHER TRIBUNAL HAS REQUESTED THAT THE ARGUMENT BE  
5 MADE:

6 (1) SPECIFICALLY ARGUE IN LUMP SUMS OR BY MATHEMATICAL  
7 FORMULA THE AMOUNT THE PARTY DEEMS TO BE THE APPROPRIATE  
8 AWARD FOR ALL PAST AND FUTURE ECONOMIC DAMAGES, NONECONOMIC  
9 DAMAGES, OR BOTH, CLAIMED TO BE RECOVERABLE.

10 (2) ARGUE THAT AN AWARD OF ZERO DAMAGES IS APPROPRIATE,  
11 EVEN IF THERE IS A FINDING OF LIABILITY AGAINST THE  
12 DEFENDANT.

13 (B) DISCLOSURE.--THE FOLLOWING SHALL APPLY:

14 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), A PARTY MAY  
15 NOT ARGUE SPECIFIC AWARD AMOUNTS BY LUMP SUM OR MATHEMATICAL  
16 FORMULA AS PROVIDED UNDER SUBSECTION (A), UNLESS THE PARTY  
17 FIRST DISCLOSES TO THE COURT AND OPPOSING COUNSEL, PRIOR TO  
18 THE PRESENTATION OF CLOSING ARGUMENTS, THAT THE PARTY INTENDS  
19 TO ARGUE SPECIFIC AWARD AMOUNTS UNDER SUBSECTION (A).

20 (2) NOTWITHSTANDING PARAGRAPH (1), ARGUMENTS AS TO AN  
21 APPROPRIATE AWARD AMOUNT FOR ECONOMIC DAMAGES MAY BE MADE  
22 WITHOUT NOTICE TO OPPOSING COUNSEL OR THE COURT IF EVIDENCE  
23 SUPPORTING AN AWARD FOR ECONOMIC DAMAGES HAS BEEN ADMITTED  
24 INTO EVIDENCE AT TRIAL.

25 (C) FACTS AND EVIDENCE.--NOTHING IN THIS SECTION SHALL BE  
26 CONSTRUED TO PREVENT A DEFENDANT FROM ARGUING THAT THE FACTS AND  
27 EVIDENCE ADMITTED AT TRIAL SUPPORT A FINDING OF NO LIABILITY.

28 (D) JURY INSTRUCTION.--IN A CIVIL ACTION TRIED BEFORE A  
29 JURY, IF AN APPROPRIATE AWARD AMOUNT IS SPECIFICALLY ARGUED  
30 DURING CLOSING ARGUMENTS AS PROVIDED FOR UNDER SUBSECTION (A),

1 THE TRIAL COURT SHALL INSTRUCT THE JURY THAT SPECIFIC AWARD  
2 AMOUNTS ARGUED ARE NOT EVIDENCE BUT ONLY THE ARGUMENT OF A PARTY  
3 AND THAT THE DETERMINATION OF THE AMOUNT OF DAMAGES TO BE  
4 AWARDED, IF ANY, IS SOLELY FOR THE JURY'S DETERMINATION.

5 Section 2. Sections 3327(b.1) and (f), 3714(d), 3720 and  
6 3732(b) of Title 75 are amended to read:

7 § 3327. Duty of driver in emergency response areas.

8 \* \* \*

9 (b.1) Suspension of operating privilege.--The department  
10 shall suspend the operating privilege of any person for 90 days  
11 upon receiving a certified record of the driver's conviction,  
12 adjudication of delinquency or admission into a preadjudication  
13 program for a violation of subsection (a), if the certified  
14 conviction indicates the violation resulted in serious bodily  
15 injury to another person. The license shall be surrendered in  
16 accordance with section 1540 (relating to surrender of license).

17 \* \* \*

18 (f) [Definitions] Definition.--As used in this section, [the  
19 following words and phrases shall have the meanings given to  
20 them in this subsection:

21 "Emergency response area." The] the term "emergency response  
22 area" means the area in which emergency service responders  
23 render emergency assistance to individuals on or near a roadway  
24 or a police officer is conducting a traffic stop or systematic  
25 check of vehicles OR CONTROLLING OR DIRECTING TRAFFIC as long as ←  
26 the emergency vehicle is making use of visual signals meeting  
27 the requirements of Subchapter D of Chapter 45.

28 ["Emergency service responder." An individual acting in an  
29 official capacity as police officer, sheriff, deputy sheriff,  
30 coroner, deputy coroner, firefighter, fire police, fire marshal,

1 medical examiner, deputy medical examiner, rescue personnel,  
2 ambulance personnel, towing and recovery personnel, highway  
3 maintenance and construction personnel, hazardous material  
4 response team member or emergency medical service personnel.

5 "Serious injury." A personal injury resulting in death,  
6 serious impairment of body function or permanent serious  
7 disfigurement.]

8 § 3714. Careless driving.

9 \* \* \*

10 [(d) Definition.--As used in this section, "serious bodily  
11 injury" means any bodily injury which creates a substantial risk  
12 of death or which causes serious, permanent disfigurement or  
13 protracted loss or impairment of the function of any bodily  
14 member or organ.]

15 § 3720. Snow and ice dislodged or falling from moving vehicle.

16 When snow or ice is dislodged or falls from a moving vehicle  
17 and strikes another vehicle or pedestrian causing death or  
18 serious bodily injury [as defined in section 3742 (relating to  
19 accidents involving death or personal injury)], the operator of  
20 the vehicle from which the snow or ice is dislodged or falls  
21 shall be subject to a fine of not less than \$200 nor more than  
22 \$1,000 for each offense.

23 § 3732. Homicide by vehicle.

24 \* \* \*

25 (b) Sentencing.--

26 (1) In addition to any other penalty provided by law, a  
27 person convicted of a violation of subsection (a) may be  
28 sentenced to an additional term not to exceed five years'  
29 confinement if at trial the prosecution proves beyond a  
30 reasonable doubt that the offense occurred in an active work

1 zone [as defined in section 102 (relating to definitions)].

2 (1.1) In addition to any other penalty provided by law,  
3 a person convicted of a violation of subsection (a) as the  
4 result of a violation of section 3325 (relating to duty of  
5 driver on approach of emergency vehicle) or 3327 (relating to  
6 duty of driver in emergency response areas) and who is  
7 convicted of violating section 3325 or 3327 may be sentenced  
8 to an additional term not to exceed five years' confinement  
9 when the violation resulted in death.

10 (2) The prosecution must indicate intent to proceed  
11 under this section in the indictment or information which  
12 commences the prosecution.

13 (3) The Pennsylvania Commission on Sentencing, pursuant  
14 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for  
15 sentencing), shall provide for a sentencing enhancement for  
16 an offense under this section when the violation occurred in  
17 an active work zone [as defined in section 102] or was the  
18 result of a violation of section 3325 or 3327.

19 Section 3. Title 75 is amended by adding a section to read:  
20 § 3732.1. Aggravated assault by vehicle.

21 (a) Offense.--Any person who recklessly or with gross  
22 negligence causes serious bodily injury to another person while  
23 engaged in the violation of any law of this Commonwealth or  
24 municipal ordinance applying to the operation or use of a  
25 vehicle or to the regulation of traffic, except section 3802  
26 (relating to driving under influence of alcohol or controlled  
27 substance), is guilty of aggravated assault by vehicle, a felony  
28 of the third degree when the violation is the cause of the  
29 injury.

30 (b) Sentencing.--

1       (1) In addition to any other penalty provided by law, a  
2 person convicted of a violation of subsection (a) may be  
3 sentenced to an additional term not to exceed two years'  
4 confinement if at trial the prosecution proves beyond a  
5 reasonable doubt that the offense occurred in an active work  
6 zone.

7       (2) In addition to any other penalty provided by law, a  
8 person convicted of a violation of subsection (a) as the  
9 result of a violation of section 3325 (relating to duty of  
10 driver on approach of emergency vehicle) or 3327 (relating to  
11 duty of driver in emergency response areas) and who is  
12 convicted of violating section 3325 or 3327 may be sentenced  
13 to an additional term not to exceed two years' confinement  
14 when the violation resulted in serious bodily injury.

15       (3) The prosecution must indicate intent to proceed  
16 under this section in the indictment or information which  
17 commences the prosecution.

18       (4) The Pennsylvania Commission on Sentencing, under 42  
19 Pa.C.S. § 2154 (relating to adoption of guidelines for  
20 sentencing), shall provide for a sentencing enhancement for  
21 an offense under this section when the violation occurred in  
22 an active work zone or was the result of a violation of  
23 section 3325 or 3327.

24       Section 4. Sections 3735.1(b), 3742(d), 3742.1(c) and  
25 3745.1(a) of Title 75 are amended to read:

26 § 3735.1. Aggravated assault by vehicle while driving under the  
27 influence.

28 \* \* \*

29 [(b) Definition.--As used in this section, the term "serious  
30 bodily injury" means any bodily injury which creates a

1 substantial risk of death or which causes serious, permanent  
2 disfigurement or protracted loss or impairment of the function  
3 of any bodily member or organ.]

4 § 3742. Accidents involving death or personal injury.

5 \* \* \*

6 [(d) Definitions.--As used in this section, the term  
7 "serious bodily injury" means any bodily injury which creates a  
8 substantial risk of death or which causes serious, permanent  
9 disfigurement or protracted loss or impairment of the function  
10 of any bodily member or organ.]

11 § 3742.1. Accidents involving death or personal injury while  
12 not properly licensed.

13 \* \* \*

14 [(c) Definitions.--As used in this section, the term  
15 "serious bodily injury" means any bodily injury which creates a  
16 substantial risk of death or which causes serious, permanent  
17 disfigurement or protracted loss or impairment of the function  
18 of any bodily member or organ.]

19 § 3745.1. Accident scene clearance.

20 (a) General rule.--Notwithstanding any other provision of  
21 law to the contrary, the driver of any vehicle in an accident  
22 that does not result in apparent serious bodily injury or death  
23 shall immediately remove the vehicle from the roadway to a safe  
24 refuge on the shoulder, emergency lane or median or to a place  
25 otherwise removed from the roadway whenever, in the judgment of  
26 the driver:

27 (1) The motor vehicle does not require towing and can be  
28 normally and safely driven under its own power in its  
29 customary manner without further damage or hazard to the  
30 motor vehicle, traffic elements or the roadway.

1 (2) The motor vehicle can be moved safely.

2 \* \* \*

3 Section 5. This act shall take effect ~~in 60 days~~. AS



4 FOLLOWS:

5 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

6 (2) THE ADDITION OF 75 PA.C.S. § 1794.1 SHALL TAKE  
7 EFFECT IN 30 DAYS.

8 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
9 DAYS.