

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1184 Session of 2011

INTRODUCED BY RAFFERTY, FONTANA, WASHINGTON, McILHINNEY, FERLO,
SCHWANK, BRUBAKER, MENSCH, SOLOBAY, D. WHITE AND SMUCKER,
JUNE 29, 2011

REFERRED TO TRANSPORTATION, JUNE 29, 2011

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for occupational limited license,
3 for definitions, for penalties, for ignition interlock, for
4 Accelerated Rehabilitative Disposition and for illegally
5 operating a motor vehicle not equipped with ignition
6 interlock.

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

9 Section 1. Section 1553(b)(1), (c), (d)(6) and (7), (d.1),
10 (d.2) and (f)(1) and (5) of Title 75 of the Pennsylvania
11 Consolidated Statutes are amended and the section is amended by
12 adding subsections to read:

13 § 1553. Occupational limited license.

14 * * *

15 (b) Petition.--

16 (1) The applicant for an occupational limited license
17 must file a petition with the department, by certified mail[,
18 setting forth in detail the need for operating a motor
19 vehicle]. The petition shall be on a form prescribed by the

department and shall identify the specific motor vehicle or vehicles the petitioner seeks permission to operate. [The petition shall include an explanation as to why the operation of a motor vehicle is essential to the petitioner's occupation, work, trade, treatment or study. The petition shall identify the petitioner's employer, educational institution or treatment facility, as appropriate, and shall include proof of financial responsibility covering all vehicles which the petitioner requests to be allowed to operate. The department shall promulgate regulations to require additional information as well as additional evidence to verify the information contained in the petition.]

* * *

(c) Fee.--The fee for applying for an occupational limited license shall be [\$50] \$100. This fee shall be nonrefundable and no other fee shall be required.

(d) Unauthorized issuance.--The department shall prohibit issuance of an occupational limited license to:

* * *

(6) Any person who has been adjudicated delinquent, granted a consent decree or granted Accelerated Rehabilitative Disposition for driving under the influence of alcohol or controlled substance unless the suspension or revocation imposed [for that conviction] under section 3807(d) (relating to Accelerated Rehabilitative Disposition) has been [fully] served.

(7) Any person whose operating privilege has been suspended for refusal to submit to chemical testing to determine the amount of alcohol or controlled substance unless 90 days of that suspension [has been fully] have been

1 served.

2 * * *

3 (d.1) Adjudication eligibility.--An individual who has been
4 convicted of an offense under section 3802 (relating to driving
5 under influence of alcohol or controlled substance) and does not
6 have a prior offense as defined in section 3806(a) (relating to
7 prior offenses) shall be eligible for an occupational limited
8 license only if the individual [has served 60 days of the
9 suspension imposed for the offense.] does all of the following:

10 (1) Has served 15 days of the suspension imposed for the
11 offense.

12 (2) Only operates a motor vehicle equipped with an
13 ignition interlock system as defined in section 3801
14 (relating to definitions).

15 (3) Has certified to the department that one or more
16 motor vehicles owned, registered or to be operated by the
17 individual has been equipped with a functioning ignition
18 interlock system as defined in section 3801 (relating to
19 definitions).

20 (d.2) Suspension eligibility.--

21 (1) An individual whose license has been suspended for a
22 period of 18 months under section 1547(b)(1)(ii) (relating to
23 chemical testing to determine amount of alcohol or controlled
24 substance) or 3804(e)(2)(ii) (relating to penalties) shall
25 not be prohibited from obtaining an occupational limited
26 license under this section if the individual:

27 (i) is otherwise eligible for restoration;

28 (ii) has served [12 months] 90 days of the
29 suspension imposed for the offense;

30 [(iii) has no more than one prior offense as defined

1 in section 3806(b);]

2 (iv) only operates a motor vehicle equipped with an
3 ignition interlock system as defined in section 3801
4 [(relating to definitions)]; and

5 (v) has certified to the department [under paragraph
6 (3)] that one or more motor vehicles owned, registered or
7 to be operated by the individual have been equipped with
8 a functioning ignition interlock system as defined in
9 section 3801.

10 [(2) A period of ignition interlock accepted under this
11 subsection shall not count towards the one-year mandatory
12 period of ignition interlock imposed under section 3805
13 (relating to ignition interlock)].

14 (3) If an individual seeks an occupational limited
15 license under this subsection, the department shall require
16 that each motor vehicle owned or registered to the person has
17 been equipped with an ignition interlock system as defined in
18 section 3801 as a condition of issuing an occupational
19 limited license with an ignition interlock restriction.]

20 * * *

21 (d.4) Credit against mandatory ignition interlock
22 requirement.--A period of ignition interlock usage required as a
23 condition of issuance of an occupational restricted license
24 under subsection (d.1) or (d.2) shall count on a day-for-day
25 basis toward the mandatory period of ignition interlock usage
26 imposed under the applicable subparagraphs of section 3805(b) (2)
27 (relating to ignition interlock).

28 (d.5) Certification to the department.--If an individual
29 seeks an occupational limited license under this subsection, the
30 department shall require that one or more motor vehicles owned,

1 registered or to be operated by the person have been equipped
2 with a functioning ignition interlock system as defined in
3 section 3801 as a condition of issuing an occupation limited
4 license with an ignition interlock restriction.

5 * * *

6 (f) Restrictions.--A driver who has been issued an
7 occupational limited license shall observe the following:

8 (1) The driver shall only operate a designated vehicle
9 [only:

10 (i) Between the driver's place of residence and
11 place of employment or study and as necessary in the
12 course of employment or conducting a business or pursuing
13 a course of study where the operation of a motor vehicle
14 is a requirement of employment or of conducting a
15 business or of pursuing a course of study.

16 (ii) To and from a place for scheduled or emergency
17 medical examination or treatment. This subparagraph
18 includes treatment required under Chapter 38 (relating to
19 driving after imbibing alcohol or utilizing drugs).]
20 equipped with an ignition interlock device.

21 * * *

22 (5) A driver who has been issued an occupational limited
23 license shall possess a completed occupational limited
24 license affidavit on a form prescribed by the department at
25 all times when operating a motor vehicle. The driver shall
26 exhibit the completed form upon demand by a police officer.
27 [The affidavit shall indicate that the driver is operating
28 the motor vehicle at a time and between places in accordance
29 with the restrictions of paragraph (1).] An occupational
30 limited license affidavit shall contain information required

1 by regulations which shall be promulgated by the department.

2 The driver is not required to possess a completed
3 occupational limited license affidavit when operating a motor
4 vehicle to a location for emergency medical treatment.

5 * * *

6 Section 2. Sections 3801 and 3804(a), (b) and (c) of Title
7 75 are amended to read:

8 § 3801. Definitions.

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

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

13 "Ignition interlock system." A system approved by the
14 department which prevents a vehicle from being started [or
15 operated] unless the operator first provides a breath sample
16 indicating that the operator has an alcohol level less than
17 0.025%.

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

19 § 3804. Penalties.

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

24 (1) For a first offense, to:

25 (i) undergo a mandatory minimum term of six months'
26 probation;

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

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

30 (iv) comply with all drug and alcohol treatment

requirements imposed under sections 3814 (relating to drug and alcohol assessments) and 3815 (relating to mandatory sentencing) [.] and

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

(2) For a second offense, to:

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

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

(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 or subsequent offense, to:

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

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

(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

1 to a vehicle or other property or who violates section 3802(b),
2 (e) or (f) shall be sentenced as follows:

3 (1) For a first offense, to:

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

6 (ii) pay a fine of not less than \$500 nor more than
7 \$5,000;

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

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

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

14 (2) For a second offense, to:

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

16 (ii) pay a fine of not less than \$750 nor more than
17 \$5,000;

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

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

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

24 (3) For a third offense, to:

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

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

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

30 (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:

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

(ii) pay a fine of not less than \$1,500;

(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 or subsequent offense, to:

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

(ii) pay a fine of not less than \$2,500; [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.

* * *

Section 3. Section 3805(a), (b) and (c) of Title 75 are
amended and the section is amended by adding a subsection to
read:

§ 3805. Ignition interlock.

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

(1) Each motor vehicle owned by the person or registered
to the person has been equipped with an ignition interlock
system and remains so for the duration of the restricted

1 license period.

2 (2) If there are no motor vehicles owned by the person
3 or registered to the person that the person so certify to the
4 department. A person so certifying shall be deemed to have
5 satisfied the requirement that all motor vehicles owned by
6 the person or registered to the person be equipped with an
7 ignition interlock system as required by this subsection.]

8 one or more motor vehicles owned by, registered to or to be
9 operated by the person have been equipped with an ignition
10 interlock system and remain equipped for the duration of the
11 restricted license period.

12 (b) Application for a restricted license.--A person subject
13 to this section shall apply to the department for an ignition
14 interlock restricted license under section 1951 (relating to
15 driver's license and learner's permit), which shall be clearly
16 marked to restrict the person to only driving, operating or
17 being in actual physical control of the movement of motor
18 vehicles equipped with an ignition interlock system. The
19 department shall:

20 (1) Upon issuance of an ignition interlock restricted
21 license to any person, [the department shall] notify the
22 person that until the person obtains an unrestricted license
23 the person may not [own, register,] drive, operate or be in
24 actual physical control of the movement of any motor vehicle
25 which is not equipped with an ignition interlock system.

26 (2) Require that a person subject to the requirements of
27 subsection (h.2) maintain an ignition interlock restricted
28 license for the following periods:

29 (i) An individual sentenced under section 3804 (a)

30 (1) and (b) (1) (relating to penalties) shall be required

1 to maintain a restricted license for six months.

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

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

8 (iv) An individual sentenced under section 3804(c)
9 (3) shall be required to maintain a restricted license
10 for 36 months.

11 (c) Issuance of unrestricted license.--[One year from the
12 date of issuance of an ignition interlock restricted license
13 under this section, if otherwise eligible, a person may be
14 issued a replacement license under section 1951(d) that does not
15 contain the ignition interlock system restriction.]

16 (1) The department shall not issue an unrestricted
17 license until a person has presented all of the following:

18 (i) Proof that the person has completed the ignition
19 interlock restricted license period as specified under
20 this section.

21 (ii) Certification by the company that provided the
22 ignition interlock device that the person is in
23 compliance with subsection (h.2).

24 (2) Upon completion of the restricted license
25 requirements under this section, if otherwise eligible, a
26 person may be issued a replacement license under section
27 1951(d) that does not contain the ignition interlock system
28 restriction.

29 * * *

30 (h.2) Declaration of compliance.--Restrictions imposed under

section 1553 (relating to occupational limited license) or 3807
(relating to Accelerated Rehabilitative Disposition) shall
remain in effect until the department receives a declaration
from the person's ignition interlock device vendor, in a form
provided or approved by the department, certifying that there
have been none of the following incidents in the four
consecutive months prior to the date entered on the certificate:

(1) An attempt to start the vehicle with a breath
alcohol concentration of 0.08 or more.

(2) Failure to take or pass any required retest.

(3) Failure of the person to appear at the ignition
interlock device vendor when required for maintenance,
repair, calibration, monitoring, inspection or replacement of
the device.

* * *

Section 4. Sections 3807(d)(1), (2) and (3) and 3808(c)(1)
of Title 75 are amended to read:

§ 3807. Accelerated Rehabilitative Disposition.

* * *

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

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

(2) For [30] 15 days if the defendant's blood alcohol
concentration at the time of testing was at least [0.10%]
0.08% but less than 0.16%, after which the defendant shall
participate in and comply with the ignition interlock program

1 under section 3805 (relating to ignition interlock) for six
2 months.

3 (3) For [60] 45 days, after which the defendant shall
4 participate in and comply with the ignition interlock program
5 under section 3805 for one year, if:

6 (i) the defendant's blood alcohol concentration at
7 the time of testing was 0.16% or higher;

8 (ii) the defendant's blood alcohol concentration is
9 not known;

10 (iii) an accident which resulted in bodily injury or
11 in damage to a vehicle or other property occurred in
12 connection with the events surrounding the current
13 offense; or

14 (iv) the defendant was charged pursuant to section
15 3802(d).

16 * * *

17 § 3808. Illegally operating a motor vehicle not equipped with
18 ignition interlock.

19 * * *

20 (c) Suspension of operating privilege.--Notwithstanding
21 section 3805(c) and (i):

22 (1) If a person who is required to only drive, operate
23 or be in actual physical control of the movement of a motor
24 vehicle equipped with an ignition interlock system violates
25 this section, upon receipt of a certified record of the
26 conviction, the department shall not issue a replacement
27 license to the person under section 1951(d) (relating to
28 driver's license and learner's permit) [that does not contain
29 an ignition interlock restriction for a period of one year
30 from the date of conviction] until the person has complied

1 with the requirements of section 3805.

2 * * *

3 Section 5. This act shall take effect in 90 days.