

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 521 Session of
2021INTRODUCED BY STEPHENS, HILL-EVANS, THOMAS, NEILSON, MILLARD,
HENNESSEY, BERNSTINE AND FREEMAN, FEBRUARY 11, 2021SENATOR LANGERHOLC, TRANSPORTATION, IN SENATE, AS AMENDED,
SEPTEMBER 20, 2022

AN ACT

1 Amending ~~Title 75 (Vehicles) of the Pennsylvania Consolidated~~ <--
2 ~~Statutes~~, TITLES 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 75 <--
3 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN
4 SENTENCING, FURTHER PROVIDING FOR SENTENCE OF TOTAL
5 CONFINEMENT; in general provisions, further providing for
6 definitions; in licensing of drivers, further providing for
7 the offense of driving while operating privilege is suspended
8 or revoked AND FOR IGNITION INTERLOCK LIMITED LICENSE; and, <--
9 in driving after imbibing alcohol or utilizing drugs, further
10 providing for IGNITION INTERLOCK, FOR prior offenses, for <--
11 Accelerated Rehabilitative Disposition, for drug and alcohol
12 assessments and for mandatory sentencing and providing for
13 substance monitoring program.

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 SECTION 1. SECTION 9756 OF TITLE 42 OF THE PENNSYLVANIA <--
19 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBSECTION TO READ:
20 § 9756. SENTENCE OF TOTAL CONFINEMENT.

21 * * *

22 (C.2) DETERMINATE SENTENCE.--A COURT MAY IMPOSE A

DETERMINE SENTENCE UNDER 75 PA.C.S. (RELATING TO VEHICLES)
WHERE THE VIOLATION IS GRADED AS A SUMMARY OFFENSE AND THE
MAXIMUM SENTENCE OF TOTAL CONFINEMENT IS 90 DAYS OR LESS.

* * *

SECTION 2. SECTION 102 OF TITLE 75 IS AMENDED BY ADDING
DEFINITIONS TO READ:

§ 102. Definitions.

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

* * *

"Continuous alcohol monitoring device." A monitoring device
or instrument that:

(1) is attached to an individual;

(2) is designed to automatically and frequently test the
presence of alcohol in the individual regardless of the
method by which the device or instrument is attached to the
individual;

(3) detects the presence of alcohol; and

(4) detects an attempt to tamper with, obstruct or
remove the device or instrument.

* * *

"Remote breath testing device." An unsupervised mobile
breath testing device that:

(1) is not affixed to a motor vehicle;

(2) has the ability to confirm the identity and location
of an individual; and

(3) detects the presence of alcohol.

* * *

"Substance monitoring program." The court-ordered use of or participation in any one or both of the following as a condition of bail, probation or parole consistent with section 3818 (relating to substance monitoring program):

(1) A continuous alcohol monitoring device, remote breath testing device or any other alcohol monitoring technology or device, as determined by the court.

(2) Random drug testing or any other controlled substance monitoring technology or device, as determined by the court.

* * *

~~Section 2. Sections 1543(b)(1.1)(i) and 3806(b)(1) of Title 75 are amended to read:~~ <--

SECTION 3. SECTIONS 1543(B)(1)(I) AND (II) AND (1.1)(I) AND 1556(B)(1) AND (2) OF TITLE 75 ARE AMENDED TO READ: <--

§ 1543. Driving while operating privilege is suspended or revoked.

* * *

(b) Certain offenses.--

~~* * *~~ <--

(1) THE FOLLOWING SHALL APPLY: <--

(I) A PERSON WHO DRIVES A MOTOR VEHICLE ON A HIGHWAY OR TRAFFICWAY OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A CONDITION OF ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION FOR A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) OR THE FORMER SECTION 3731, BECAUSE OF A VIOLATION OF SECTION 1547(B)(1) (RELATING TO SUSPENSION

FOR REFUSAL) OR 3802 OR FORMER SECTION 3731 OR IS
SUSPENDED UNDER SECTION 1581 (RELATING TO DRIVER'S
LICENSE COMPACT) FOR AN OFFENSE SUBSTANTIALLY SIMILAR TO
A VIOLATION OF SECTION 3802 OR FORMER SECTION 3731 SHALL,
UPON A FIRST CONVICTION, BE GUILTY OF A SUMMARY OFFENSE
AND SHALL BE SENTENCED TO PAY A FINE OF \$500 AND TO
UNDERGO IMPRISONMENT FOR A PERIOD OF [NOT LESS THAN] 60
DAYS [NOR MORE THAN 90 DAYS].

(II) A SECOND VIOLATION OF THIS PARAGRAPH SHALL
CONSTITUTE A SUMMARY OFFENSE AND, UPON CONVICTION OF THIS
PARAGRAPH, A PERSON SHALL BE SENTENCED TO PAY A FINE OF
\$1,000 AND TO UNDERGO IMPRISONMENT FOR [NOT LESS THAN] 90
DAYS.

* * *

(1.1) (i) A person who has an amount of alcohol by
weight in his blood that is equal to or greater than .02%
at the time of testing or who at the time of testing has
in his blood any amount of a Schedule I or nonprescribed
Schedule II or III controlled substance, as defined in
the act of April 14, 1972 (P.L.233, No.64), known as The
Controlled Substance, Drug, Device and Cosmetic Act, or
its metabolite or [who refuses testing of blood or
breath] who refuses testing of breath under section 1547
(relating to chemical testing to determine amount of
alcohol or controlled substance) or chemical testing of
blood pursuant to a valid search warrant, court order or
any other basis permissible by the Constitution of the
United States and the Constitution of Pennsylvania, and
who drives a motor vehicle on any highway or trafficway
of this Commonwealth at a time when the person's

operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section 3802 or former section 3731 or because of a violation of section 1547(b) (1) or 3802 or former section 3731 or is suspended under section 1581 for an offense substantially similar to a violation of section 3802 or former section 3731 shall, upon a first conviction, be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of [not less than] 90 days. <--

* * *

§ 1556. IGNITION INTERLOCK LIMITED LICENSE. <--

* * *

(B) PETITION.--

(1) AN APPLICANT FOR AN IGNITION INTERLOCK LIMITED LICENSE SHALL FILE A PETITION WITH THE DEPARTMENT, BY CERTIFIED MAIL, ON A FORM PRESCRIBED BY THE DEPARTMENT, [, AND SHALL INCLUDE PROOF THAT AN APPROVED IGNITION INTERLOCK SYSTEM, AS DEFINED IN SECTION 3801, HAS BEEN INSTALLED IN ONE OR MORE MOTOR VEHICLES THAT THE APPLICANT SEEKS PERMISSION TO OPERATE.] THE PETITION SHALL INCLUDE PROOF OF FINANCIAL RESPONSIBILITY COVERING EACH VEHICLE THE APPLICANT REQUESTS TO BE PERMITTED TO OPERATE. UPON APPROVAL OF THE PETITION, THE IGNITION INTERLOCK SYSTEM SHALL BE INSTALLED IN ANY MOTOR VEHICLE TO BE OPERATED BY THE APPLICANT, AND PROOF OF INSTALLATION SHALL BE PROVIDED BY THE IGNITION INTERLOCK DEVICE VENDOR.

(2) [THE PETITION SHALL ALSO INCLUDE PROOF OF FINANCIAL RESPONSIBILITY COVERING EACH VEHICLE THE APPLICANT REQUESTS

1 TO BE PERMITTED TO OPERATE.] THE DEPARTMENT SHALL PROMULGATE
2 REGULATIONS TO REQUIRE ADDITIONAL INFORMATION AS WELL AS
3 ADDITIONAL EVIDENCE TO VERIFY THE INFORMATION CONTAINED IN
4 THE PETITION.

5 * * *

6 SECTION 4. SECTION 3805 OF TITLE 75 IS AMENDED BY ADDING A
7 SUBSECTION TO READ:

8 § 3805. IGNITION INTERLOCK.

9 * * *

10 (H.3) NOTICE TO DEPARTMENT.--IF A VIOLATION UNDER SUBSECTION
11 (H.2) (1), (2) OR (3) OCCURS IN THE TWO CONSECUTIVE MONTHS PRIOR
12 TO THE DATE ENTERED ON THE CERTIFICATE, THE VENDOR SHALL NOTIFY
13 THE DEPARTMENT AS TO THE VIOLATION ON A FORM DESIGNATED BY THE
14 DEPARTMENT, AND THE DEPARTMENT SHALL NOTIFY THE PERSON OF THE
15 VIOLATION AND THAT IGNITION INTERLOCK DEVICE USAGE SHALL
16 CONTINUE UNTIL NO VIOLATIONS HAVE OCCURRED WITHIN A 60-DAY
17 PERIOD.

18 * * *

19 SECTION 5. SECTIONS 3806(B) (1), 3807(B) (4) AND 3814(4) OF
20 TITLE 75 ARE AMENDED TO READ:

21 § 3806. Prior offenses.

22 * * *

23 (b) Timing.--

24 (1) For purposes of sections 1553(d.2) (relating to
25 occupational limited license), 1556 (relating to ignition
26 interlock limited license), 3803 (relating to grading), 3804
27 (relating to penalties) [and], 3805 (relating to ignition
28 interlock), 3815 (relating to mandatory sentencing) and 3818
29 (relating to substance monitoring program), the prior offense
30 must have occurred:

(i) within 10 years prior to the date of the offense
for which the defendant is being sentenced; or
(ii) on or after the date of the offense for which
the defendant is being sentenced.

* * *

~~Section 3. Section 3807(b)(4) of Title 75 is amended and
subsection (a) is amended by adding a paragraph to read:~~

<--

§ 3807. Accelerated Rehabilitative Disposition.

~~(a) Eligibility.~~

<--

~~* * *~~

~~(3) Notwithstanding the procedures for Accelerated
Rehabilitative Disposition for other crimes, the attorney for
the Commonwealth shall not submit a charge brought under this
chapter for Accelerated Rehabilitative Disposition unless
all of the following apply:~~

~~(i) The defendant admits that the Commonwealth's
evidence would prove the elements beyond a reasonable
doubt under section 3802.~~

~~(ii) The defendant agrees that the defendant's
admission may be used as a prior conviction for the
purpose of increasing the grading and penalty of any
subsequent offense under this title.~~

~~(iii) The defendant knowingly and voluntarily waives
the defendant's right to challenge the use of the
Accelerated Rehabilitative Disposition as a prior
conviction for the purpose of enhancing the grading and
sentencing of any subsequent offense under this title.~~

* * *

(b) Evaluation and treatment.--

* * *

(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:

(i) Length of stay.

(ii) Levels of care.

(iii) Follow-up care and monitoring.

(iv) The use of medication-assisted treatment in conjunction with behavioral therapies if the treatment is clinically appropriate.

* * *

~~Section 4. Section 3814(4) of Title 75 is amended to read: <--~~

§ 3814. Drug and alcohol assessments.

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

* * *

(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:

(i) Length of stay.

(ii) Levels of care.

(iii) Follow-up care and monitoring.

(iv) The use of medication-assisted treatment in conjunction with behavioral therapies if the treatment is clinically appropriate.

~~Section 5 6. Section 3815(b) (2) of Title 75 is amended and <--~~
the section is amended by adding a subsection to read:

§ 3815. Mandatory sentencing.

* * *

1 (b) Parole.--

2 * * *

3 (2) The following shall be conditions of parole:

4 (i) If the offender is not determined under the
5 procedures set forth in section 3814 to be addicted to
6 alcohol or another substance, the offender must refrain
7 from:

8 (A) the use of illegal controlled substances;

9 and

10 (B) the abuse of prescription drugs, over-the-
11 counter drugs or any other substances.

12 (ii) If the offender is determined under the
13 procedures set forth in section 3814 to be addicted to
14 alcohol or another substance, the offender must do all of
15 the following:

16 (A) Refrain from:

17 (I) the use of alcohol or illegal controlled
18 substances; and

19 (II) the abuse of prescription drugs, over-
20 the-counter drugs or any other substances.

21 (B) Participate in and cooperate with drug and
22 alcohol addiction treatment under subsection (c).

23 (iii) In addition to any other condition or
24 restriction imposed, an individual who violates section
25 3802 and who has one or more prior offenses may be
26 ordered by the court to participate in a substance
27 monitoring program under section 3818 (relating to
28 substance monitoring program).

29 (b.1) Probation.--In addition to any other condition or
30 restriction imposed, an individual who violates section 3802 and

1 who has one or more prior offenses may be ordered by the court
2 to participate in a substance monitoring program as a condition
3 of probation under section 3818.

4 * * *

5 Section ~~6~~ 7. Title 75 is amended by adding a section to <--
6 read:

7 § 3818. Substance monitoring program.

8 (a) Evaluation required.--

9 (1) In all of the following circumstances, in addition
10 to any other condition or restriction imposed, an individual
11 shall be evaluated by a court to determine whether, at the
12 court's discretion, the individual may be ordered to
13 participate in a substance monitoring program:

14 (i) While adjudication of a violation of section
15 3802 (relating to driving under influence of alcohol or
16 controlled substance) is pending for an individual who
17 has one or more prior offenses.

18 (ii) While adjudication of two or more violations of
19 section 3802 are concurrently pending for an individual.

20 (iii) As a condition of probation or parole where
21 the individual violates section 3802 and has one or more
22 prior offenses.

23 (2) The court may use the assessment from section 3814
24 (relating to drug and alcohol assessments) to satisfy the
25 requirement under paragraph (1).

26 (b) Monitoring devices and technologies.--

27 (1) A substance monitoring program shall include a
28 requirement that the individual use or participate in one or
29 both of the following, as determined by the court:

30 (i) A continuous alcohol monitoring device, remote

breath testing device or any other similar alcohol monitoring technology or device, other than an ignition interlock system, as determined by the court.

(ii) Random drug testing or any other controlled substance monitoring technology or device as determined by the court.

(2) When determining the devices or technologies to be used under paragraph (1), the court shall consider:

(i) the individual's prior offenses;

(ii) the individual's most recent violation of section 3802;

(iii) any pending adjudication of the individual for a violation of section 3802;

(iv) in consultation with the county, the monitoring devices and technologies available to or utilized by the county;

(v) the individual's ability to pay the costs of participation in the substance monitoring program, including costs associated with any required device or technology; and

(vi) any other factor deemed appropriate by the court.

(c) Determination and costs to be paid.--If the court orders an individual to participate in a substance monitoring program, the individual shall pay for costs associated with the individual's participation in the substance monitoring program, including costs associated with any required device or technology. An individual ordered to participate in a substance monitoring program may not be prevented from being released on bail, probation or parole solely because of their inability to

1 pay the costs of the substance monitoring program.

2 (d) Prohibitions.--An individual ordered to participate in a
3 substance monitoring program is prohibited from all of the
4 following for the duration of the substance monitoring program:

5 (1) Imbibing alcohol or using controlled substances, or
6 both, as determined by the court.

7 (2) Tampering with any device or technology associated
8 with the substance monitoring program.

9 (3) Failing to comply with any other requirement ordered
10 by the court as part of the substance monitoring program.

11 (e) Construction.--Nothing in this section shall be
12 construed to prohibit a court from ordering:

13 (1) An individual pending adjudication for a single
14 violation of section 3802 with no prior offenses to
15 participate in a substance monitoring program as a condition
16 of bail.

17 (2) An individual convicted of a violation of section
18 3802 who has no prior offenses to participate in a substance
19 monitoring program as a condition of probation or parole.

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

<--

21 (1) The following provisions shall take effect
22 immediately:

23 ~~(i) The addition of 75 Pa.C.S. § 3807(a)(3).~~

<--

24 ~~(ii) This section.~~

25 ~~(2) The following provisions shall take effect in 60~~
26 ~~days.~~

27 ~~(i) The amendment of 75 Pa.C.S. § 3807(b)(4).~~

28 ~~(ii) The amendment of 75 Pa.C.S. § 3814(4).~~

29 ~~(3) The remainder of this act shall take effect in 120~~
30 ~~days.~~

(I) THE ADDITION OF 42 PA.C.S. § 9756(C.2).

(II) THE AMENDMENT OF 75 PA.C.S. § 1543(B)(1)(I) AND

(II) AND (1.1)(I).

(III) THIS SECTION.

(2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 60

DAYS:

(I) THE AMENDMENT OF 75 PA.C.S. § 3807(B)(4).

(II) THE AMENDMENT OF 75 PA.C.S. § 3814(4).

(3) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 11

MONTHS:

(I) THE AMENDMENT OF 75 PA.C.S. § 1556(B)(1) AND

(2).

(II) THE ADDITION OF 75 PA.C.S. § 3805(H.3).

(4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 120

DAYS.