

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 857 Session of 2021

INTRODUCED BY JOZWIAK, BURGOS, RIGBY, BROOKS, SCHLOSSBERG, RYAN, CIRESI, SCHWEYER, NEILSON, T. DAVIS, O'MARA, STRUZZI, WHEELAND AND HERSHEY, MARCH 10, 2021

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 10, 2021

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
 2 "An act relating to the manufacture, sale and possession of
 3 controlled substances, other drugs, devices and cosmetics;
 4 conferring powers on the courts and the secretary and
 5 Department of Health, and a newly created Pennsylvania Drug,
 6 Device and Cosmetic Board; establishing schedules of
 7 controlled substances; providing penalties; requiring
 8 registration of persons engaged in the drug trade and for the
 9 revocation or suspension of certain licenses and
 10 registrations; and repealing an act," further providing for
 11 prohibited acts and penalties.
 12 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
 13 Statutes, in licensing of drivers, further providing for
 14 suspension of operating privilege.

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

17 Section 1. Section 13(g) of the act of April 14, 1972
 18 (P.L.233, No.64), known as The Controlled Substance, Drug,
 19 Device and Cosmetic Act, is amended to read:

20 Section 13. Prohibited Acts; Penalties.--* * *

21 (g) [Any] The following shall apply:

22 (1) Except as provided under clause (2), a person who
 23 violates clause (31) of subsection (a):

1 (i) For a first or second offense, is guilty of a summary
2 offense and upon conviction thereof shall only pay a fine not
3 exceeding three hundred dollars (\$300).

4 (ii) For a third or subsequent offense, is guilty of a
5 misdemeanor of the third degree and upon conviction thereof
6 shall only pay a fine not exceeding one thousand dollars
7 (\$1,000).

8 (2) A person who violates clause (31) of subsection (a) as
9 follows is guilty of a misdemeanor and upon conviction thereof
10 shall be sentenced to imprisonment not exceeding thirty days, or
11 to pay a fine not exceeding five hundred dollars (\$500), or
12 both[.]:

13 (i) who is under eighteen (18) years of age;

14 (ii) while in a motor vehicle; or

15 (iii) while in a building of, on the grounds of, or in a
16 conveyance providing transportation to or from an elementary or
17 secondary publicly funded educational institution, an elementary
18 or secondary private school licensed by the Department of
19 Education or any elementary or secondary parochial school.

20 (3) The judicial authority with jurisdiction over the
21 violation by a person under eighteen (18) years of age shall
22 give first consideration to referring the person to a
23 diversionary program under 42 Pa.C.S. § 1520 (relating to
24 adjudication alternative program) and the Pennsylvania Rules of
25 Criminal Procedure. As part of the diversionary program, the
26 judicial authority with jurisdiction over the violation may
27 order the person to participate in an educational program. If
28 the person successfully completes the diversionary program, the
29 person's records of the charge of violating clause (2) shall be
30 expunged as provided for under Pa.R.C.P. No.320 (relating to

1 expungement upon successful completion of ARD program).

2 * * *

3 Section 2. Section 1532(c) of Title 75 of the Pennsylvania
4 Consolidated Statutes is amended to read:

5 § 1532. Suspension of operating privilege.

6 * * *

7 (c) Suspension.--The department shall suspend the operating
8 privilege of any person 21 years of age or younger upon
9 receiving a certified record of the person's conviction or
10 adjudication of delinquency under 18 Pa.C.S. § 2706 (relating to
11 terroristic threats) committed on or against any school
12 property, including any public school grounds, during any
13 school-sponsored activity or on any conveyance providing
14 transportation to a school entity or school-sponsored activity
15 in accordance with the following:

16 (1) [The] Except as provided under paragraph (1.1), the
17 period of suspension shall be as follows:

18 (i) For a first offense, a period of six months from
19 the date of the suspension.

20 (ii) For a second offense, a period of one year from
21 the date of the suspension.

22 (iii) For a third and any subsequent offense
23 thereafter, a period of two years from the date of the
24 suspension.

25 (1.1) For a third and any subsequent violation of
26 section 13(a)(31) of the act of April 14, 1972 (P.L.233,
27 No.64), known as The Controlled Substance, Drug, Device and
28 Cosmetic Act, a period of six months from the date of
29 suspension.

30 (2) For the purposes of this subsection, the term

1 "conviction" shall include any conviction or adjudication of
2 delinquency for any of the offenses listed in paragraph (1),
3 whether in this Commonwealth or any other Federal or state
4 court.

5 * * *

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