



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 961

PRINTERS NO. 2098

PRIME SPONSOR: Rafferty

### COST / (SAVINGS)

FUND	FY 2018/19	FY 2019/20
Commonwealth Funds	See "Fiscal Impact"	See "Fiscal Impact"
County Funds	See "Fiscal Impact"	See "Fiscal Impact"

**SUMMARY:** Amends various sections in Title 75 (Vehicle Code) regarding homicide by vehicle and aggravated assault by vehicle, driving under license suspension and driving under the influence of alcohol or drugs. Section 3756 would take effect immediately and the remainder of this legislation would take effect in 60 days.

**ANALYSIS:** This legislation makes omnibus changes to the Vehicle Code as follows:

**Section 1505 (Learners' Permits):** This legislation adds a provision that the person accompanying the student driver may not be "manifestly under the influence of alcohol or drugs to the degree that the person may endanger themselves or others".

**Section 1543 (Driving While Operating Privilege Suspended/Revoked):** The legislation amends Section 1543 to increase the penalty for driving while under suspension for a prior DUI, from a summary offense with a minimum \$500 fine and not less than 60 days in jail to a summary offense with a mandatory minimum of 90 days and \$1,000 for a second offense. A third and subsequent offense will be a misdemeanor of the third degree with a mandatory \$2,500 fine and 6 months in jail.

**Section 3732 (Homicide by Vehicle) and Section 3732.1 (Aggravated Assault By Vehicle):** Provides for up to an additional 5 years of imprisonment for a person who commits homicide by vehicle, 75 Pa.C.S. 3732, and "who is also convicted" of driving without a license or driving under a suspended license (DUS). It provides for up to an additional two years imprisonment for a person who commits aggravated assault by vehicle, 75 Pa.C.S. 3732.1, for a person "who is also convicted" of driving without a license or DUS.

The legislation directs the Commission on Sentencing to provide a sentencing enhancement for such violations.

**Section 3735 (Homicide by Vehicle While Driving Under Influence):** This legislation increases the grading to a felony of the first degree, if the person has, prior to sentencing, been convicted of, granted ARD, adjudicated delinquent or entered into a juvenile consent decree for a prior DUI or certain other offenses.

Additionally, the current 3-year mandatory minimum sentence which must be imposed for each victim of a vehicular homicide while DUI is increased to 5 years, if the person has one of the enumerated prior convictions or dispositions, and 7 years if he has sustained two or more.

**Section 3735.1 (Aggravated Assault by Vehicle While Driving Under the Influence):** The legislation would allow the court to impose an additional two-year sentence if a person convicted of the offense is also convicted of violating Sections 1501 (relating to drivers required to be licensed) or 1543 (relating to driving while operating privilege is suspended or revoked).

**Section 3742.1 (Accidents Involving Death/Personal Injury While Not Properly Licensed):** This legislation adds a provision making it an offense if an unlicensed driver acted with negligence, that contributed to the cause of an accident that results in injury or death to anyone. If any person suffers bodily injury, the violation will be a misdemeanor of the third degree. If death or serious bodily injury results, it will be graded a misdemeanor of the second degree.

**Section 3756 (Post-Accident Testing):** The legislation amends Section 3756 of the Vehicle Code to rename the section "Post-accident testing" and deletes the current contents of the section and mandates that PennDOT promulgate regulations consistent with 49 CFR 382.303 (relating to post-accident testing).

**Section 3803 (Grading):** The legislation also amends Section 3803 regarding the grading of offenses under Section 3802 (driving under the influence of alcohol or drugs.)

Currently, a person who commits a third or subsequent offense under Section 3802 (a) (general impairment or a blood alcohol level between .08 and .10) in a 10-year period commits a misdemeanor of the second degree. The grading is increased to a misdemeanor of the first degree if there is an accident resulting in death or injury, the blood alcohol was at least .10, the driver was a minor or a commercial or school bus driver or the person was under the influence of a Schedule II or III controlled substance or had any Schedule I controlled substance in his system.

This legislation would increase the grading to a felony of the third degree for a fourth or subsequent offense under Section 3802 in a 10-year period, or any offense after a conviction for Section 3735 (regarding homicide by vehicle). The grading will also be increased to a felony of the third degree if the person commits a third offense in a 10-year period and either refused to submit to a chemical test to determine his blood alcohol level, had a blood alcohol level of .16

or higher, was under the influence of a Schedule II or III controlled substance or had in his system any Schedule I controlled substance.

The legislation would increase the grading to a felony of the third degree for a third or subsequent offense under Section 3802 where a minor under 18 years of age was an occupant in the vehicle when the violation occurred.

This legislation also makes changes to Section 3803 to comply with the U.S. Supreme Court's decision that a blood test to detect alcohol must be done pursuant to consent, a valid search warrant or exigent circumstances in the particular case.

**Section 3804 (Penalties):** The legislation amends Section 3804 to place an 18-month license suspension for a DUI conviction that is graded as a felony of the third degree.

**FISCAL IMPACT:** According to data provided by the Pennsylvania Commission on Sentencing, there have been eight repeat convictions for Homicide by Vehicle while DUI over the last three calendar years, which is just under three convictions per year. Extending minimum imprisonment time for an average of three convictions per year would add minimal costs for the Department of Corrections.

The remainder of the legislation could have a minimal fiscal impact on Commonwealth and county funds as the legislation would add potentially longer prison terms for violators of these new/enhanced violations.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** October 15, 2018

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*