

CRIMES CODE (18 PA.C.S.) AND JUDICIAL CODE (42 PA.C.S.) -  
ANTIHAZING AND PRESCRIBING PENALTIES, PURCHASE, CONSUMPTION,  
POSSESSION OR TRANSPORTATION OF LIQUOR OR MALT OR BREWED  
BEVERAGES, SAFE HARBOR FOR VIOLATION OF SECTION 6308(A) AND  
ASSET FORFEITURE

Act of Oct. 19, 2018, P.L. 535, No. 80

Cl. 18

Session of 2018  
No. 2018-80

SB 1090

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in offenses involving danger to the person, providing for antihazing and prescribing penalties; in minors, further providing for purchase, consumption, possession or transportation of liquor or malt or brewed beverages and providing for safe harbor for violation of section 6308(a); in forfeiture of assets, further providing for asset forfeiture; and making a related repeal.

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

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

**CHAPTER 28**  
**ANTIHAZING**

**Sec.**

2801. Definitions.

2802. Hazing.

2803. Aggravated hazing.

2804. Organizational hazing.

2805. Institutional hazing.

2806. Defenses prohibited.

2807. Forfeiture.

2808. Enforcement by institution and secondary school.

2809. Institutional reports.

2810. Safe harbor.

2811. Civil remedies.

§ 2801. Definitions.

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

"911 call." A transmission of information via a telecommunications device to a public safety answering point for the initial reporting of police, fire, medical or other emergency situations.

"Alcoholic liquid." A substance containing liquor, spirit, wine, beer, malt or brewed beverage or any combination thereof.

"Bodily injury." The term has the same meaning as given to that term in section 2301 (relating to definitions).

"Campus security officer." An employee of an institution of higher education charged with maintaining the safety and security of the property of the institution and the individuals on the property.

"Drug." A controlled substance or drug as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Emergency services personnel." Individuals, including a trained volunteer or a member of the armed forces of the United States or the National Guard, whose official or assigned responsibilities include performing or directly supporting the performance of emergency medical and rescue services or firefighting.

"Institution of higher education" or "institution." An institution located within this Commonwealth authorized to grant an associate or higher academic degree.

"Law enforcement officer." An individual who, by virtue of the individual's office or public employment, is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or an individual on active State duty under 51 Pa.C.S. § 508 (relating to active duty for emergency).

"Minor." An individual younger than 18 years of age.

"Organization." Any of the following:

(1) A fraternity, sorority, association, corporation, order, society, corps, club or service, social or similar group, whose members are primarily minors, students or alumni of the organization, an institution or secondary school.

(2) A national or international organization with which a fraternity or sorority or other organization as enumerated under paragraph (1) is affiliated.

"Secondary school." A public or private school within this Commonwealth that provides instruction in grades 7 through 12 or a combination of grades 7 through 12.

"Serious bodily injury." The term shall have the same meaning as given to that term in section 2301.

"Student." An individual who attends or has applied to attend or has been admitted to an institution or secondary school.

§ 2802. Hazing.

(a) Offense defined.--A person commits the offense of hazing if the person intentionally, knowingly or recklessly, for the purpose of initiating, admitting or affiliating a minor or student into or with an organization, or for the purpose of continuing or enhancing a minor or student's membership or status in an organization, causes, coerces or forces a minor or student to do any of the following:

(1) Violate Federal or State criminal law.

(2) Consume any food, liquid, alcoholic liquid, drug or other substance which subjects the minor or student to a risk of emotional or physical harm.

(3) Endure brutality of a physical nature, including whipping, beating, branding, calisthenics or exposure to the elements.

(4) Endure brutality of a mental nature, including activity adversely affecting the mental health or dignity of the individual, sleep deprivation, exclusion from social contact or conduct that could result in extreme embarrassment.

(5) Endure brutality of a sexual nature.

(6) Endure any other activity that creates a reasonable likelihood of bodily injury to the minor or student.

(b) Grading.--

(1) Except as provided under paragraph (2), hazing is a summary offense.

(2) Hazing shall be a misdemeanor of the third degree if it results in or creates a reasonable likelihood of bodily injury to the minor or student.

(c) Limitation.--Hazing shall not include reasonable and customary athletic, law enforcement or military training, contests, competitions or events.

§ 2803. Aggravated hazing.

(a) Offense defined.--A person commits the offense of aggravated hazing if the person commits a violation of section 2802 (relating to hazing) that results in serious bodily injury or death to the minor or student and:

(1) the person acts with reckless indifference to the health and safety of the minor or student; or

(2) the person causes, coerces or forces the consumption of an alcoholic liquid or drug by the minor or student.

(b) Grading.--Aggravated hazing shall be a felony of the third degree.

§ 2804. Organizational hazing.

(a) Offense defined.--An organization that intentionally, knowingly or recklessly promotes or facilitates a violation of section 2802 (relating to hazing) or 2803 (relating to aggravated hazing) commits the offense of organizational hazing and shall be subject to any of the following penalties:

(1) A fine of not more than \$5,000 for each violation of section 2802.

(2) A fine of not more than \$15,000 for each violation of section 2803.

(b) Penalties.--In addition to any other sentence imposed, if an organization commits the offense of organizational hazing, the organization shall be subject to such other relief as the court deems equitable.

§ 2805. Institutional hazing.

An institution which intentionally, knowingly or recklessly promotes or facilitates a violation of section 2802 (relating to hazing) or 2803 (relating to aggravated hazing) commits the offense of institutional hazing and shall be subject to any of the following penalties:

(1) A fine of not more than \$5,000 for each violation of section 2802.

(2) A fine of not more than \$15,000 for each violation of section 2803.

§ 2806. Defenses prohibited.

It shall not be a defense to any offense under this chapter that any of the following apply:

(1) The consent of the minor or student was sought or obtained.

(2) The conduct was sanctioned or approved by the institution, secondary school or organization.

§ 2807. Forfeiture.

Upon conviction of a defendant under section 2803 (relating to aggravated hazing) or 2804 (relating to organizational hazing) the court may, in addition to any other sentence authorized under law, direct the defendant to forfeit property which was involved in the violation for which the defendant was convicted. The forfeiture shall be conducted in accordance with 42 Pa.C.S. §§ 5803 (relating to asset forfeiture), 5805 (relating to forfeiture procedure), 5806 (relating to motion for return of property), 5807 (relating to restrictions on use), 5807.1 (relating to prohibition on adoptive seizures) and 5808 (relating to exceptions).

§ 2808. Enforcement by institution and secondary school.

(a) Antihazing policy.--

(1) Each institution and each governing board of a secondary school shall adopt a written policy against hazing and, pursuant to that policy, shall adopt rules prohibiting

students or other persons associated with an organization operating under the sanction of or recognized as an organization by the institution or secondary school from engaging in hazing or an offense under this chapter.

(2) Each institution shall provide a copy of the policy, including the institution's rules, penalties and program of enforcement, to each organization within the institution. Each secondary school shall ensure that students are informed of the secondary school's policy, including the secondary school's rules, penalties and program of enforcement.

(3) Each institution and secondary school shall post the policy on the institution's or the secondary school's publicly accessible Internet website.

(b) Enforcement and penalties.--

(1) Each institution and each governing board of a secondary school shall provide a program for the enforcement of the policy required under subsection (a) and shall adopt appropriate penalties for violations of the policy to be administered by the individual or agency at the institution or secondary school responsible for the sanctioning or recognition of the organizations covered by the policy.

(2) Penalties under paragraph (1) may include any of the following:

(i) The imposition of fines.

(ii) The withholding of diplomas or transcripts pending compliance with the rules or payment of fines.

(iii) The rescission of permission for the organization to operate on campus or school property or to otherwise operate under the sanction or recognition of the institution or secondary school.

(iv) The imposition of probation, suspension, dismissal or expulsion.

(3) A penalty imposed under this section shall be in addition to a penalty imposed for violation of an offense under this chapter or the criminal laws of this Commonwealth or for violation of any other institutional or secondary school rule to which the violator may be subject.

(4) A policy adopted under this section shall apply to each act conducted on or off campus or school property if the acts are deemed to constitute hazing or any offense under this chapter.

§ 2809. Institutional reports.

(a) Maintenance.--An institution shall maintain a report of all violations of the institution's antihazing policy or Federal or State laws related to hazing that are reported to the institution.

(b) Contents.--The report shall include all of the following:

(1) The name of the subject of the report.

(2) The date when the subject was charged with a violation of the institution's antihazing policy or Federal or State laws related to hazing.

(3) A general description of the violation, any investigation and findings by the institution and, if applicable, penalties.

(4) The date on which the matter was resolved.

(c) Initial report.--This section shall apply beginning with the 2018-2019 academic year. The initial report shall include information concerning violations that have been reported to the institution for the five consecutive years prior to the effective date of this section to the extent the institution has retained information concerning the violations.

(d) Personal identifying information.--The report shall not include the personal identifying information of an individual.

(e) Time.--An institution shall post an initial report required under this section on its publicly accessible Internet website by January 15, 2019.

(f) Update.--An institution shall update the report biannually on January 1 and August 1 and shall post the updated report on its publicly accessible Internet website.

(g) Duration.--An institution shall retain reports for five years.

§ 2810. Safe harbor.

(a) Immunity for the individual seeking medical attention for another.--An individual shall not be prosecuted for an offense under this chapter if the individual can establish all of the following:

(1) A law enforcement officer first became aware of the individual's violation of this chapter because the individual placed a 911 call or contacted campus security, police or emergency services, based on a reasonable belief that another individual was in need of immediate medical attention to prevent death or serious bodily injury.

(2) The individual reasonably believed the individual was the first individual to make a 911 call or contact campus security, police or emergency services and report that an individual needed immediate medical attention to prevent death or serious bodily injury.

(3) The individual provided the individual's own name to the 911 operator or equivalent campus security officer, police or emergency services personnel.

(4) The individual remained with the individual needing medical assistance until a campus security officer, police or emergency services personnel arrived and the need for the individual's presence had ended.

(b) Derivative immunity for the individual needing medical attention.--An individual needing medical attention shall be immune under this section from prosecution for an offense under this chapter or section 6308(a) (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) only if another individual against whom probable cause exists to charge an offense under this chapter reported the incident and remained with the individual needing medical attention and the other individual qualifies for a safe harbor under this section.

(c) Limitations.--The safe harbors described under this section shall be limited as follows:

(1) This section may not bar prosecuting a person for an offense under this chapter if a law enforcement officer learns of the offense prior to and independent of the action of seeking or obtaining emergency assistance as described in subsection (a).

(2) This section shall not interfere with or prevent the investigation, arrest, charging or prosecution of an individual for a crime other than an offense under this chapter or section 6308(a).

(3) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution for a crime other than an offense under this chapter or section 6308(a).

(4) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for a safe harbor under this section.

(d) **Civil immunity.**--In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer, campus security officer or prosecuting attorney who, acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the filing of the charges. § 2811. **Civil remedies.**

Nothing in this chapter precludes a civil remedy otherwise provided by law.

Section 2. Section 6308(f) of Title 18 is repealed:  
§ 6308. Purchase, consumption, possession or transportation of liquor or malt or brewed beverages.

\* \* \*

[(f) Exception for person seeking medical attention for another.--A person shall be immune from prosecution for consumption or possession under subsection (a) if he can establish the following:

(1) The only way law enforcement officers became aware of the person's violation of subsection (a) is because the person placed a 911 call, or a call to campus safety, police or emergency services, in good faith, based on a reasonable belief and reported that another person was in need of immediate medical attention to prevent death or serious injury.

(2) The person reasonably believed he was the first person to make a 911 call or a call to campus safety, police or emergency services, and report that a person needed immediate medical attention to prevent death or serious injury.

(3) The person provided his own name to the 911 operator or equivalent campus safety, police or emergency officer.

(4) The person remained with the person needing medical assistance until emergency health care providers arrived and the need for his presence had ended.]

Section 3. Title 18 is amended by adding a section to read:  
§ 6308.1. **Safe harbor for violation of section 6308(a).**

(a) **Immunity for the individual seeking medical attention for another.**--An individual shall not be prosecuted for an offense under section 6308(a) (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) if the individual can establish all of the following:

(1) A law enforcement officer first became aware of the individual's violation of section 6308(a) because the individual placed a 911 call or contacted campus security, police or emergency services, based on a reasonable belief that another individual was in need of immediate medical attention to prevent death or serious bodily injury.

(2) The individual reasonably believed the individual was the first individual to make a 911 call or contact campus security, police or emergency services and report that the other individual needed immediate medical attention to prevent death or serious bodily injury.

(3) The individual provided the individual's own name to the 911 operator or equivalent campus security officer, police or emergency services personnel.

(4) The individual remained with the other individual needing medical assistance until a campus security officer, police or emergency services personnel arrived and the need for the individual's presence ended.

(b) **Immunity for the individual needing medical attention.**--An individual needing medical attention shall be

immune under this section from prosecution for an offense under section 6308(a) if another individual reported the incident and remained with the individual needing medical attention and is entitled to immunity under this section.

(c) Limitations.--The immunity described under this section shall be limited as follows:

(1) This section may not bar prosecuting a person for an offense under section 6308(a) if a law enforcement officer learns of the offense prior to and independent of the action of seeking or obtaining emergency assistance as described in subsection (a).

(2) This section shall not interfere with or prevent the investigation, arrest, charging or prosecution of an individual for a crime other than an offense under section 6308(a).

(3) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution for a crime other than an offense under section 6308(a).

(4) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for immunity under this section.

(d) Good faith immunity.--In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer, campus security officer or prosecuting attorney who, acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the filing of the charges.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"911 system." A system, including enhanced 911 service and a wireless e-911 system, that permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

"Campus security officer." An employee of an institution of higher education charged with maintaining the safety and security of the property of the institution and persons on the property.

"Emergency services personnel." Individuals, including a trained volunteer or a member of the armed forces of the United States or the National Guard, whose official or assigned responsibilities include performing or directly supporting the performance of emergency medical and rescue services or firefighting.

"Law enforcement officer." A person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or a person on active State duty under 51 Pa.C.S. § 508 (relating to active duty for emergency).

Section 4. Section 5803(a) of Title 42 is amended by adding a paragraph to read:

§ 5803. Asset forfeiture.

(a) Applicability.--Notwithstanding any law to the contrary, this section shall apply to forfeitures conducted under the following:

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(3.1) 18 Pa.C.S. § 2807 (relating to forfeiture).

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Section 5. Repeals are as follows:

(1) The General Assembly finds that the repeal under paragraph (2) is necessary to effectuate the addition of 18 Pa.C.S. Ch. 28.

(2) The act of December 15, 1986 (P.L.1595, No.175), known as the Antihazing Law, is repealed.

Section 6. The addition of 18 Pa.C.S. Ch. 28 is a continuation of the act of December 15, 1986 (P.L.1595, No.175), known as the Antihazing Law. Except as otherwise provided in 18 Pa.C.S. Ch. 28, all activities and duties initiated under the Antihazing Law shall continue and remain in full force and effect and may be completed under 18 Pa.C.S. Ch. 28. Orders, regulations, rules and decisions which were made under the Antihazing Law and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 18 Pa.C.S. Ch. 28. Prosecutions and policies entered into under the Antihazing Law are not affected nor impaired by the repeal of the Antihazing Law.

Section 7. The addition of 18 Pa.C.S. Ch. 28 and 42 Pa.C.S. § 5803(a)(3.1) shall apply to causes of action which accrue on or after the effective date of this section.

Section 8. This amendatory act shall be referred to as the "Timothy J. Piazza Antihazing Law."

Section 9. This act shall take effect in 30 days.

APPROVED--The 19th day of October, A.D. 2018.

TOM WOLF