

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1207 Session of
1993

INTRODUCED BY PICCOLA, MASLAND, CHADWICK, VAN HORNE, DEMPSEY,
ARMSTRONG, BELARDI, PITTS, DeLUCA, PLATTS, PETTIT, JOSEPHS,
VANCE, CLYMER, M. N. WRIGHT, E. Z. TAYLOR, SCHEETZ, BAKER,
TULLI, KREBS, GERLACH, L. I. COHEN, HECKLER, HERSHEY,
BATTISTO, M. COHEN, FLICK, STERN, MILLER, BROWN, GEIST,
HUGHES, CIVERA AND EGOLF, APRIL 19, 1993

REFERRED TO COMMITTEE ON TRANSPORTATION, APRIL 19, 1993

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for blood alcohol levels in
3 relation to driving under the influence.

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

6 Section 1. Sections 1547(d) and 3731(a) and (a.1) of Title
7 75 of the Pennsylvania Consolidated Statutes, amended or added
8 December 18, 1992 (P.L. , No.174), are amended to read:

9 § 1547. Chemical testing to determine amount of alcohol or
10 controlled substance.

11 * * *

12 (d) Presumptions from amount of alcohol.--If chemical
13 testing of a person's breath, blood or urine shows:

14 (1) That the amount of alcohol by weight in the blood of
15 the person tested is 0.05% or less, it shall be presumed that
16 the person tested was not under influence of alcohol and the

1 person shall not be charged with any violation under section
2 3731(a)(1), (4) or (5) (relating to driving under influence
3 of alcohol or controlled substance), or, if the person was so
4 charged prior to the test, the charge shall be void ab
5 initio. This fact shall not give rise to any presumption
6 concerning a violation of section 3731(a)(2) or (3) or (i).

7 (2) That the amount of alcohol by weight in the blood of
8 the person tested is in excess of 0.05% but less than [0.10%]
9 0.08%, this fact shall not give rise to any presumption that
10 the person tested was or was not under the influence of
11 alcohol, but this fact may be considered with other competent
12 evidence in determining whether the person was or was not
13 under the influence of alcohol. This provision shall not
14 negate the provisions of section 3731(i).

15 (3) That the amount of alcohol by weight in the blood of
16 the person tested is [0.10%] 0.08% or more, this fact may be
17 introduced into evidence if the person is charged with
18 violating section 3731.

19 * * *

20 § 3731. Driving under influence of alcohol or controlled
21 substance.

22 (a) Offense defined.--A person shall not drive, operate or
23 be in actual physical control of the movement of any vehicle:

24 (1) while under the influence of alcohol to a degree
25 which renders the person incapable of safe driving;

26 (2) while under the influence of any controlled
27 substance, as defined in the act of April 14, 1972 (P.L.233,
28 No.64), known as ["The Controlled Substance, Drug, Device
29 and Cosmetic Act,["] to a degree which renders the person
30 incapable of safe driving;

1 (3) while under the combined influence of alcohol and
2 any controlled substance to a degree which renders the person
3 incapable of safe driving;

4 (4) while the amount of alcohol by weight in the blood
5 of the person is [0.10%] 0.08% or greater; or

6 (5) if the amount of alcohol by weight in the blood of
7 the person is [0.10%] 0.08% or greater at the time of a
8 chemical test of a sample of the person's breath, blood or
9 urine, which sample is:

10 (i) obtained within three hours after the person
11 drove, operated or was in actual physical control of the
12 vehicle; or

13 (ii) if the circumstances of the incident prevent
14 collecting the sample within three hours, obtained within
15 a reasonable additional time after the person drove,
16 operated or was in actual physical control of the
17 vehicle.

18 (a.1) Defense.--It shall be a defense to a prosecution under
19 subsection (a)(5) if the person proves by a preponderance of
20 evidence that the person consumed alcohol after the last
21 instance in which he drove, operated or was in actual physical
22 control of the vehicle, and that the amount of alcohol by weight
23 in his blood would not have exceeded [0.10%] 0.08% at the time
24 of the test but for such consumption.

25 * * *

26 Section 2. This act shall take effect in 60 days.