

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1891 Session of
1995

INTRODUCED BY TRUE, MAYERNIK, SCHULER, BARLEY, YOUNGBLOOD,
OLIVER, LEDERER, PITTS, BEBKO-JONES, ZIMMERMAN, ARMSTRONG,
STRITTMATTER, ROHRER, EGOLF, MANDERINO, HORSEY, COWELL,
KAISER, WALKO, READSHAW, LAUGHLIN, FAJT, STEELMAN, TRELLO AND
MARKOSEK, JUNE 28, 1995

REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 28, 1995

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, providing for the definition of "minor"; further
3 providing for blood alcohol levels of minors in relation to
4 driving under the influence; and making an editorial change.

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

7 Section 1. Section 102 of Title 75 of the Pennsylvania
8 Consolidated Statutes is amended by adding a definition to read:
9 § 102. Definitions.

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

15 * * *

16 "Minor." A person who is under 21 years of age.

17 * * *

Section 2. Sections 1547(d) and 3731(a) and (a.1) of Title
75 are amended to read:

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

* * *

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

(1) That the amount of alcohol by weight in the blood of
the person tested, excluding a minor, is 0.05% or less, it
shall be presumed that the person tested was not under
influence of alcohol and the person shall not be charged with
any violation under section 3731(a)(1), (4) or (5) (relating
to driving under influence of alcohol or controlled
substance), or, if the person was so charged prior to the
test, the charge shall be void ab initio. This fact shall not
give rise to any presumption concerning a violation of
section 3731(a)(2) or (3) or (i).

(2) That the amount of alcohol by weight in the blood of
the person tested, excluding a minor, is in excess of 0.05%
but less than 0.10%, this fact shall not give rise to any
presumption that the person tested was or was not under the
influence of alcohol, but this fact may be considered with
other competent evidence in determining whether the person
was or was not under the influence of alcohol. This provision
shall not negate the provisions of section 3731(i).

(3) That the amount of alcohol by weight in the blood of
the person tested is 0.10% or more, or, in the case of a
minor, is 0.02% or more, this fact may be introduced into
evidence if the person is charged with violating section
3731.

1 * * *

2 § 3731. Driving under influence of alcohol or controlled
3 substance.

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

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

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

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

16 (4) while the amount of alcohol by weight in the blood
17 of the person is 0.10% or greater, or, in the case of a
18 minor, is 0.02% or more; [or]

19 (5) if the amount of alcohol by weight in the blood of
20 the person is 0.10% or greater, or, in the case of a minor,
21 is 0.02% or more, at the time of a chemical test of a sample
22 of the person's breath, blood or urine, which sample is:

23 (i) obtained within three hours after the person
24 drove, operated or was in actual physical control of the
25 vehicle; or

26 (ii) if the circumstances of the incident prevent
27 collecting the sample within three hours, obtained within
28 a reasonable additional time after the person drove,
29 operated or was in actual physical control of the
30 vehicle[.]; or

1 (6) if the person is a minor, if the amount of alcohol
2 by weight in the blood is 0.02% or more.

3 (a.1) Defense.--It shall be a defense to a prosecution under
4 subsection (a)(5) or (6) if the person proves by a preponderance
5 of evidence that the person consumed alcohol after the last
6 instance in which he drove, operated or was in actual physical
7 control of the vehicle, and that the amount of alcohol by weight
8 in his blood would not have exceeded 0.10%, or, in the case of a
9 minor, would not have exceeded 0.02% at the time of the test but
10 for such consumption.

11 * * *

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