
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 8

Session of
2003

INTRODUCED BY DENT, WONDERLING, MADIGAN, HELFRICK, LEMMOND,
CORMAN, TOMLINSON, WENGER, RAFFERTY, THOMPSON, COSTA, KITCHEN
AND C. WILLIAMS, FEBRUARY 3, 2003

REFERRED TO JUDICIARY, FEBRUARY 3, 2003

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for chemical testing to determine
3 amount of alcohol or controlled substance and for driving
4 under the influence of alcohol or controlled substances.

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

7 Section 1. Sections 1547(d) and 3731(a) and (a.1) of Title
8 75 of the Pennsylvania Consolidated Statutes are amended to
9 read:

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

12 * * *

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

15 (1) That the amount of alcohol by weight in the blood of
16 an adult is 0.05% or less, it shall be presumed that the
17 adult was not under the influence of alcohol and the adult
18 shall not be charged with any violation under section

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

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

14 (3) That the amount of alcohol by weight in the blood
15 of:

16 (i) an adult is [0.10%] 0.08% or more; or

17 (ii) a minor is 0.02% or more,

18 this fact may be introduced into evidence if the person is
19 charged with violating section 3731.

20 * * *

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

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

26 (1) While under the influence of alcohol to a degree
27 which renders the person incapable of safe driving.

28 (2) While under the influence of any controlled
29 substance, as defined in the act of April 14, 1972 (P.L.233,
30 No.64), known as The Controlled Substance, Drug, Device and

1 Cosmetic Act, to a degree which renders the person incapable
2 of safe driving.

3 (3) While under the combined influence of alcohol and
4 any controlled substance to a degree which renders the person
5 incapable of safe driving.

6 (4) While the amount of alcohol by weight in the blood
7 of:

8 (i) an adult is [0.10%] 0.08% or greater; or

9 (ii) a minor is 0.02% or greater.

10 (a.1) Prima facie evidence.--

11 (1) It is prima facie evidence that:

12 (i) an adult had [0.10%] 0.08% or more by weight of
13 alcohol in his or her blood at the time of driving,
14 operating or being in actual physical control of the
15 movement of any vehicle if the amount of alcohol by
16 weight in the blood of the person is equal to or greater
17 than [0.10%] 0.08% at the time a chemical test is
18 performed on a sample of the person's breath, blood or
19 urine;

20 (ii) a minor had 0.02% or more by weight of alcohol
21 in his or her blood at the time of driving, operating or
22 being in actual physical control of the movement of any
23 vehicle if the amount of alcohol by weight in the blood
24 of the minor is equal to or greater than 0.02% at the
25 time a chemical test is performed on a sample of the
26 person's breath, blood or urine; and

27 (iii) a person operating a commercial vehicle had
28 0.04% or more by weight of alcohol in his or her blood at
29 the time of driving, operating or being in actual
30 physical control of the movement of the commercial

1 vehicle if the amount of alcohol by weight in the blood
2 of a person operating a commercial vehicle is equal to or
3 greater than 0.04% at the time a chemical test is
4 performed on a sample of the person's breath, blood or
5 urine.

6 (2) For the purposes of this section, the chemical test
7 of the sample of the person's breath, blood or urine shall be
8 from a sample obtained within three hours after the person
9 drove, operated or was in actual physical control of the
10 vehicle.

11 * * *

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