

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

AS AMENDED ON THIRD CONSIDERATION, APRIL 21, 2003

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further DEFINING "EMERGENCY VEHICLE"; AND FURTHER <—
3 providing for chemical testing to determine amount of alcohol
4 or controlled substance and, for driving under the influence <—
5 of alcohol or controlled substances, FOR VISUAL AND AUDIBLE <—
6 SIGNALS ON EMERGENCY VEHICLES, FOR THE CHILD PASSENGER
7 RESTRAINT FUND AND FOR CIVIL IMMUNITY FOR LENDERS OF CHILD
8 PASSENGER RESTRAINT SYSTEMS.

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

11 ~~Section 1. Sections 1547(d) and 3731(a) and (a.1) of Title <—
12 75 of the Pennsylvania Consolidated Statutes are amended to
13 read:~~

14 SECTION 1. THE DEFINITION OF "EMERGENCY VEHICLE" IN SECTION <—
15 102 OF TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS
16 AMENDED TO READ:

17 § 102. DEFINITIONS.

18 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
19 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
20 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN

1 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
2 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

3 * * *

4 "EMERGENCY VEHICLE." A FIRE DEPARTMENT VEHICLE, POLICE
5 VEHICLE, SHERIFF VEHICLE, AMBULANCE, BLOOD DELIVERY VEHICLE,
6 HUMAN ORGAN DELIVERY VEHICLE, HAZARDOUS MATERIAL RESPONSE
7 VEHICLE, ARMED FORCES EMERGENCY VEHICLE, ONE VEHICLE OPERATED BY
8 A CORONER OR CHIEF COUNTY MEDICAL EXAMINER AND ONE VEHICLE
9 OPERATED BY A CHIEF DEPUTY CORONER OR DEPUTY CHIEF COUNTY
10 MEDICAL EXAMINER USED FOR ANSWERING EMERGENCY CALLS, OR ANY
11 OTHER VEHICLE DESIGNATED BY THE STATE POLICE UNDER SECTION 6106
12 (RELATING TO DESIGNATION OF EMERGENCY VEHICLES BY PENNSYLVANIA
13 STATE POLICE), OR A PRIVATELY OWNED VEHICLE USED IN ANSWERING AN
14 EMERGENCY CALL WHEN USED BY ANY OF THE FOLLOWING:

15 (1) A POLICE CHIEF AND ASSISTANT CHIEF.

16 (2) A FIRE CHIEF, ASSISTANT CHIEF AND, WHEN A FIRE
17 COMPANY HAS THREE OR MORE FIRE VEHICLES, A SECOND OR THIRD
18 ASSISTANT CHIEF.

19 (3) A FIRE POLICE CAPTAIN AND FIRE POLICE LIEUTENANT.

20 (4) AN AMBULANCE CORPS COMMANDER AND ASSISTANT
21 COMMANDER.

22 (5) A RIVER RESCUE COMMANDER AND ASSISTANT COMMANDER.

23 (6) A COUNTY EMERGENCY MANAGEMENT COORDINATOR.

24 (7) A FIRE MARSHAL.

25 (8) A RESCUE SERVICE CHIEF AND ASSISTANT CHIEF.

26 (9) A HAZARDOUS MATERIALS TEAM CHIEF AND ASSISTANT
27 CHIEF.

28 * * *

29 SECTION 2. SECTIONS 1547(D), 3731(A) AND (A.1), 4571(B)
30 HEADING AND (1), 4582 AND 4586 OF TITLE 75 ARE AMENDED TO READ:

1 § 1547. Chemical testing to determine amount of alcohol or
2 controlled substance.

3 * * *

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

6 (1) That the amount of alcohol by weight in the blood of
7 an adult is 0.05% or less, it shall be presumed that the
8 adult was not under the influence of alcohol and the adult
9 shall not be charged with any violation under section
10 3731(a)(1), (4) or (5) (relating to driving under influence
11 of alcohol or controlled substance), or, if the adult was so
12 charged prior to the test, the charge shall be void ab
13 initio. This fact shall not give rise to any presumption
14 concerning a violation of section 3731(a)(2) or (3) or (i).

15 (2) That the amount of alcohol by weight in the blood of
16 an adult is in excess of 0.05% but less than [0.10%] 0.08%,
17 this fact shall not give rise to any presumption that the
18 adult was or was not under the influence of alcohol, but this
19 fact may be considered with other competent evidence in
20 determining whether the adult was or was not under the
21 influence of alcohol. This provision shall not negate the
22 provisions of section 3731(i).

23 (3) That the amount of alcohol by weight in the blood
24 of:

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

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

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

29 * * *

30 § 3731. Driving under influence of alcohol or controlled

1 substance.

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

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

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

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

15 (4) While the amount of alcohol by weight in the blood
16 of:

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

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

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

20 (1) It is prima facie evidence that:

21 (i) an adult had [0.10%] 0.08% or more by weight of
22 alcohol in his or her blood at the time of driving,
23 operating or being in actual physical control of the
24 movement of any vehicle if the amount of alcohol by
25 weight in the blood of the person is equal to or greater
26 than [0.10%] 0.08% at the time a chemical test is
27 performed on a sample of the person's breath, blood or
28 urine;

29 (ii) a minor had 0.02% or more by weight of alcohol
30 in his or her blood at the time of driving, operating or

1 being in actual physical control of the movement of any
2 vehicle if the amount of alcohol by weight in the blood
3 of the minor is equal to or greater than 0.02% at the
4 time a chemical test is performed on a sample of the
5 person's breath, blood or urine; and

6 (iii) a person operating a commercial vehicle had
7 0.04% or more by weight of alcohol in his or her blood at
8 the time of driving, operating or being in actual
9 physical control of the movement of the commercial
10 vehicle if the amount of alcohol by weight in the blood
11 of a person operating a commercial vehicle is equal to or
12 greater than 0.04% at the time a chemical test is
13 performed on a sample of the person's breath, blood or
14 urine.

15 (2) For the purposes of this section, the chemical test
16 of the sample of the person's breath, blood or urine shall be
17 from a sample obtained within three hours after the person
18 drove, operated or was in actual physical control of the
19 vehicle.

20 * * *

21 § 4571. VISUAL AND AUDIBLE SIGNALS ON EMERGENCY VEHICLES. <—

22 * * *

23 (B) POLICE, SHERIFF, FIRE AND CORONER [OR] MEDICAL EXAMINER
24 OR HAZARDOUS MATERIALS RESPONSE VEHICLES.--

25 (1) POLICE, SHERIFF, CORONER, MEDICAL EXAMINER [OR]
26 FIRE POLICE AND HAZARDOUS MATERIALS RESPONSE VEHICLES MAY IN
27 ADDITION TO THE REQUIREMENTS OF SUBSECTION (A) BE EQUIPPED
28 WITH ONE OR MORE REVOLVING OR FLASHING BLUE LIGHTS. THE
29 COMBINATION OF RED AND BLUE LIGHTS MAY BE USED ONLY ON
30 POLICE, SHERIFF, CORONER, MEDICAL EXAMINER [OR] FIRE POLICE

1 OR HAZARDOUS MATERIALS RESPONSE VEHICLES.

2 * * *

3 § 4582. CHILD PASSENGER RESTRAINT FUND.

4 A CHILD PASSENGER RESTRAINT FUND IS ESTABLISHED IN THE
5 GENERAL FUND AS A SPECIAL RESTRICTED RECEIPTS ACCOUNT HEREBY
6 EARMARKED FOR AND APPROPRIATED TO THE DEPARTMENT. THIS FUND
7 SHALL CONSIST OF ALL FINES DEPOSITED PURSUANT TO SECTION 4581(B)
8 (RELATING TO RESTRAINT SYSTEMS), ALL FEDERAL FUNDS GRANTED FOR
9 SAID USE AND ANY MONEYS DONATED INTO THE FUND. ALL SUCH FUNDS
10 SHALL BE USED SOLELY FOR THE PURPOSE OF PURCHASING FEDERALLY
11 APPROVED CHILD RESTRAINT SEATS AND CHILD BOOSTER SEATS AND
12 MAKING SUCH SEATS AVAILABLE TO QUALIFIED LOANER PROGRAMS WITHIN
13 THE COMMONWEALTH. A QUALIFIED LOANER PROGRAM SHALL BE ONE
14 DETERMINED BY THE DEPARTMENT TO LOAN FEDERALLY APPROVED CHILD
15 RESTRAINT SEATS AND CHILD BOOSTER SEATS TO PARENTS OR LEGAL
16 GUARDIANS OF CHILDREN UNDER [FOUR] EIGHT YEARS OF AGE WHO, DUE
17 TO FINANCIAL OR ECONOMIC HARDSHIP, ARE UNABLE TO COMPLY WITH THE
18 PROVISIONS OF THIS SUBCHAPTER. THE DEPARTMENT SHALL ADOPT SUCH
19 REGULATIONS AS ARE NECESSARY TO EFFECTUATE THE PURPOSE OF THIS
20 SECTION.

21 § 4586. CIVIL IMMUNITY FOR LENDERS OF CHILD PASSENGER RESTRAINT
22 SYSTEMS.

23 NO PERSON OR ORGANIZATION WHO OR WHICH LENDS TO ANOTHER
24 PERSON OR ORGANIZATION A CHILD PASSENGER RESTRAINT SYSTEM OR
25 CHILD BOOSTER SEAT, AS [DESCRIBED] DEFINED IN SECTION 4581
26 (RELATING TO RESTRAINT SYSTEMS), SHALL BE LIABLE FOR ANY CIVIL
27 DAMAGES RESULTING FROM ANY ACTS OR OMISSION, EXCEPT ANY ACT OR
28 OMISSION INTENTIONALLY DESIGNED TO HARM, OR ANY GROSSLY
29 NEGLIGENT ACT OR OMISSION RESULTING IN HARM TO ANOTHER.

30 Section ~~2~~ 3. This act shall take effect ~~in 60 days~~ SEPTEMBER <—

1 30, 2003.