

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, COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES,
JUNE 10, 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. The definition of "emergency vehicle" in section <—~~
12 ~~102 of Title 75 of the Pennsylvania Consolidated Statutes is~~
13 ~~amended to read:~~

14 ~~§ 102. Definitions.~~

15 ~~Subject to additional definitions contained in subsequent~~
16 ~~provisions of this title which are applicable to specific~~
17 ~~provisions of this title, the following words and phrases when~~
18 ~~used in this title shall have, unless the context clearly~~
19 ~~indicates otherwise, the meanings given to them in this section:~~

1 * * *

2 ~~"Emergency vehicle." A fire department vehicle, police~~
3 ~~vehicle, sheriff vehicle, ambulance, blood delivery vehicle,~~
4 ~~human organ delivery vehicle, hazardous material response~~
5 ~~vehicle, armed forces emergency vehicle, one vehicle operated by~~
6 ~~a coroner or chief county medical examiner and one vehicle~~
7 ~~operated by a chief deputy coroner or deputy chief county~~
8 ~~medical examiner used for answering emergency calls, or any~~
9 ~~other vehicle designated by the State Police under section 6106~~
10 ~~(relating to designation of emergency vehicles by Pennsylvania~~
11 ~~State Police), or a privately owned vehicle used in answering an~~
12 ~~emergency call when used by any of the following:~~

13 ~~(1) A police chief and assistant chief.~~

14 ~~(2) A fire chief, assistant chief and, when a fire~~
15 ~~company has three or more fire vehicles, a second or third~~
16 ~~assistant chief.~~

17 ~~(3) A fire police captain and fire police lieutenant.~~

18 ~~(4) An ambulance corps commander and assistant~~
19 ~~commander.~~

20 ~~(5) A river rescue commander and assistant commander.~~

21 ~~(6) A county emergency management coordinator.~~

22 ~~(7) A fire marshal.~~

23 ~~(8) A rescue service chief and assistant chief.~~

24 ~~(9) A hazardous materials team chief and assistant~~
25 ~~chief.~~

26 * * *

27 ~~Section 2. Sections 1547(d), 3731(a) and (a.1), 4571(b)~~
28 ~~heading and (1), 4582 and 4586 of Title 75 are amended to read:~~

29 SECTION 1. SECTIONS 1547(D) AND 3731(A) AND (A.1) OF TITLE
30 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO

<—

1 READ:

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

4 * * *

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

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

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

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

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

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

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

30 * * *

1 § 3731. Driving under influence of alcohol or controlled
2 substance.

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

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 and
11 Cosmetic Act, to a degree which renders the person incapable
12 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:

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

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

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

21 (1) It is prima facie evidence that:

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

30 (ii) a minor had 0.02% or more by weight of alcohol

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

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

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

21 * * *

22 ~~§ 4571. Visual and audible signals on emergency vehicles.~~ <—

23 * * *

24 ~~(b) Police, sheriff, fire and coroner [or] medical examiner~~
25 ~~or hazardous materials response vehicles.~~

26 ~~(1) Police, sheriff, coroner, medical examiner [or]~~
27 ~~fire police and hazardous materials response vehicles may in~~
28 ~~addition to the requirements of subsection (a) be equipped~~
29 ~~with one or more revolving or flashing blue lights. The~~
30 ~~combination of red and blue lights may be used only on~~

1 ~~police, sheriff, coroner, medical examiner [or], fire police~~
2 ~~or hazardous materials response vehicles.~~

3 * * *

4 ~~§ 4582. Child Passenger Restraint Fund.~~

5 ~~A Child Passenger Restraint Fund is established in the~~
6 ~~General Fund as a special restricted receipts account hereby~~
7 ~~earmarked for and appropriated to the department. This fund~~
8 ~~shall consist of all fines deposited pursuant to section 4581(b)~~
9 ~~(relating to restraint systems), all Federal funds granted for~~
10 ~~said use and any moneys donated into the fund. All such funds~~
11 ~~shall be used solely for the purpose of purchasing Federally~~
12 ~~approved child restraint seats and child booster seats and~~
13 ~~making such seats available to qualified loaner programs within~~
14 ~~the Commonwealth. A qualified loaner program shall be one~~
15 ~~determined by the department to loan Federally approved child~~
16 ~~restraint seats and child booster seats to parents or legal~~
17 ~~guardians of children under [four] eight years of age who, due~~
18 ~~to financial or economic hardship, are unable to comply with the~~
19 ~~provisions of this subchapter. The department shall adopt such~~
20 ~~regulations as are necessary to effectuate the purpose of this~~
21 ~~section.~~

22 ~~§ 4586. Civil immunity for lenders of child passenger restraint~~
23 ~~systems.~~

24 ~~No person or organization who or which lends to another~~
25 ~~person or organization a child passenger restraint system or~~
26 ~~child booster seat, as [described] defined in section 4581~~
27 ~~(relating to restraint systems), shall be liable for any civil~~
28 ~~damages resulting from any acts or omission, except any act or~~
29 ~~omission intentionally designed to harm, or any grossly~~
30 ~~negligent act or omission resulting in harm to another.~~

1 ~~Section 3. This act shall take effect September 30, 2003.~~

2 SECTION 2. THIS ACT SHALL TAKE EFFECT OCTOBER 1, 2003, OR <—

3 IMMEDIATELY, WHICHEVER IS LATER.