

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 RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JULY 2, 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 ~~AMENDING TITLES 18 (CRIMES AND OFFENSES), 30 (FISH), 34 (GAME),~~ <—
10 ~~42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 75 (VEHICLES) OF~~
11 ~~THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR~~
12 ~~DISPLAY OF REGISTRATION PLATE, FOR IMPAIRMENT DUE TO ALCOHOL~~
13 ~~OR CONTROLLED SUBSTANCES, FOR DEPARTMENT OF TRANSPORTATION~~
14 ~~RECORDS, FOR AUTOMATED RED LIGHT ENFORCEMENT SYSTEMS IN FIRST~~
15 ~~CLASS CITIES, FOR ENUMERATION OF POLICE POWERS, FOR~~
16 ~~INVESTIGATION BY POLICE OFFICERS AND FOR CERTAIN SURCHARGES;~~
17 ~~AND MAKING EDITORIAL CHANGES.~~
18 ~~AMENDING TITLES 18 (CRIMES AND OFFENSES), 30 (FISH), 34 (GAME),~~ <—
19 ~~42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 75 (VEHICLES) OF~~
20 ~~THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR~~
21 ~~IMPAIRMENT DUE TO ALCOHOL OR CONTROLLED SUBSTANCES, FOR~~
22 ~~DEPARTMENT OF TRANSPORTATION RECORDS, FOR INVESTIGATION BY~~
23 ~~POLICE OFFICERS AND FOR CERTAIN SURCHARGES; AND MAKING~~
24 ~~EDITORIAL CHANGES.~~

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 ~~Section 1. The definition of "emergency vehicle" in section~~ <—

1 ~~102 of Title 75 of the Pennsylvania Consolidated Statutes is~~
2 ~~amended to read:~~

3 ~~§ 102. Definitions.~~

4 ~~Subject to additional definitions contained in subsequent~~
5 ~~provisions of this title which are applicable to specific~~
6 ~~provisions of this title, the following words and phrases when~~
7 ~~used in this title shall have, unless the context clearly~~
8 ~~indicates otherwise, the meanings given to them in this section:~~

9 ~~* * *~~

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

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

22 ~~(2) A fire chief, assistant chief and, when a fire~~
23 ~~company has three or more fire vehicles, a second or third~~
24 ~~assistant chief.~~

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

26 ~~(4) An ambulance corps commander and assistant~~
27 ~~commander.~~

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

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

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

1 ~~provisions of section 3731(i).~~

2 ~~(3) That the amount of alcohol by weight in the blood~~
3 ~~of:~~

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

5 ~~(ii) a minor is 0.02% or more,~~

6 ~~this fact may be introduced into evidence if the person is~~
7 ~~charged with violating section 3731.~~

8 ~~* * *~~

9 ~~§ 3731. Driving under influence of alcohol or controlled~~
10 ~~substance.~~

11 ~~(a) Offense defined. A person shall not drive, operate or~~
12 ~~be in actual physical control of the movement of a vehicle in~~
13 ~~any of the following circumstances:~~

14 ~~(1) While under the influence of alcohol to a degree~~
15 ~~which renders the person incapable of safe driving.~~

16 ~~(2) While under the influence of any controlled~~
17 ~~substance, as defined in the act of April 14, 1972 (P.L.233,~~
18 ~~No.64), known as The Controlled Substance, Drug, Device and~~
19 ~~Cosmetic Act, to a degree which renders the person incapable~~
20 ~~of safe driving.~~

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

24 ~~(4) While the amount of alcohol by weight in the blood~~
25 ~~of:~~

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

27 ~~(ii) a minor is 0.02% or greater.~~

28 ~~(a.1) Prima facie evidence.—~~

29 ~~(1) It is prima facie evidence that:~~

30 ~~(i) an adult had [0.10%] 0.08% or more by weight of~~

1 ~~alcohol in his or her blood at the time of driving,~~
2 ~~operating or being in actual physical control of the~~
3 ~~movement of any vehicle if the amount of alcohol by~~
4 ~~weight in the blood of the person is equal to or greater~~
5 ~~than [0.10%] 0.08% at the time a chemical test is~~
6 ~~performed on a sample of the person's breath, blood or~~
7 ~~urine;~~

8 ~~(ii) a minor had 0.02% or more by weight of alcohol~~
9 ~~in his or her blood at the time of driving, operating or~~
10 ~~being in actual physical control of the movement of any~~
11 ~~vehicle if the amount of alcohol by weight in the blood~~
12 ~~of the minor is equal to or greater than 0.02% at the~~
13 ~~time a chemical test is performed on a sample of the~~
14 ~~person's breath, blood or urine; and~~

15 ~~(iii) a person operating a commercial vehicle had~~
16 ~~0.04% or more by weight of alcohol in his or her blood at~~
17 ~~the time of driving, operating or being in actual~~
18 ~~physical control of the movement of the commercial~~
19 ~~vehicle if the amount of alcohol by weight in the blood~~
20 ~~of a person operating a commercial vehicle is equal to or~~
21 ~~greater than 0.04% at the time a chemical test is~~
22 ~~performed on a sample of the person's breath, blood or~~
23 ~~urine.~~

24 ~~(2) For the purposes of this section, the chemical test~~
25 ~~of the sample of the person's breath, blood or urine shall be~~
26 ~~from a sample obtained within three hours after the person~~
27 ~~drove, operated or was in actual physical control of the~~
28 ~~vehicle.~~

29 ~~* * *~~

30 ~~§ 4571. Visual and audible signals on emergency vehicles.~~

<—

1 * * *

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

4 ~~(1) Police, sheriff, coroner, medical examiner [or]~~
5 ~~fire police and hazardous materials response vehicles may in~~
6 ~~addition to the requirements of subsection (a) be equipped~~
7 ~~with one or more revolving or flashing blue lights. The~~
8 ~~combination of red and blue lights may be used only on~~
9 ~~police, sheriff, coroner, medical examiner [or] fire police~~
10 ~~or hazardous materials response vehicles.~~

11 * * *

12 ~~§ 4582. Child Passenger Restraint Fund.~~

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

30 ~~§ 4586. Civil immunity for lenders of child passenger restraint~~

1 systems.

2 No person or organization who or which lends to another
3 person or organization a child passenger restraint system or
4 child booster seat, as [described] defined in section 4581
5 (relating to restraint systems), shall be liable for any civil
6 damages resulting from any acts or omission, except any act or
7 omission intentionally designed to harm, or any grossly
8 negligent act or omission resulting in harm to another.

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

10 SECTION 2. THIS ACT SHALL TAKE EFFECT OCTOBER 1, 2003, OR <—
11 IMMEDIATELY, WHICHEVER IS LATER.

12 SECTION 1. SECTION 6105(C)(3) OF TITLE 18 OF THE <—
13 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

14 § 6105. PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL
15 OR TRANSFER FIREARMS.

16 * * *

17 (C) OTHER PERSONS. IN ADDITION TO ANY PERSON WHO HAS BEEN
18 CONVICTED OF ANY OFFENSE LISTED UNDER SUBSECTION (B), THE
19 FOLLOWING PERSONS SHALL BE SUBJECT TO THE PROHIBITION OF
20 SUBSECTION (A):

21 * * *

22 (3) A PERSON WHO HAS BEEN CONVICTED OF DRIVING UNDER THE
23 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE AS PROVIDED IN
24 75 PA.C.S. § [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE
25 OF ALCOHOL OR CONTROLLED SUBSTANCE) ON THREE OR MORE SEPARATE
26 OCCASIONS WITHIN A FIVE YEAR PERIOD. FOR THE PURPOSES OF THIS
27 PARAGRAPH ONLY, THE PROHIBITION OF SUBSECTION (A) SHALL ONLY
28 APPLY TO TRANSFERS OR PURCHASES OF FIREARMS AFTER THE THIRD
29 CONVICTION.

30 * * *

1 ~~SECTION 2. SECTION 7508.1(B) AND (C) OF TITLE 18 ARE AMENDED~~
2 ~~TO READ:~~

3 ~~§ 7508.1. SUBSTANCE ABUSE EDUCATION AND DEMAND REDUCTION FUND.~~

4 ~~* * *~~

5 ~~(B) IMPOSITION. UNLESS THE COURT FINDS THAT UNDUE HARDSHIP~~
6 ~~WOULD RESULT, A MANDATORY COST OF \$100, WHICH SHALL BE IN~~
7 ~~ADDITION TO ANY OTHER COSTS IMPOSED PURSUANT TO STATUTORY~~
8 ~~AUTHORITY, SHALL AUTOMATICALLY BE ASSESSED ON ANY INDIVIDUAL~~
9 ~~CONVICTED, ADJUDICATED DELINQUENT OR GRANTED ACCELERATED~~
10 ~~REHABILITATIVE DISPOSITION OR ANY INDIVIDUAL WHO PLEADS GUILTY~~
11 ~~OR NOLO CONTENDERE FOR A VIOLATION OF THE ACT OF APRIL 14, 1972~~
12 ~~(P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,~~
13 ~~DEVICE AND COSMETIC ACT, OR A VIOLATION OF 75 PA.C.S. § [3731]~~
14 ~~3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
15 ~~CONTROLLED SUBSTANCE).~~

16 ~~(C) ADDITIONAL ASSESSMENT. IN ADDITION TO THE ASSESSMENT~~
17 ~~REQUIRED BY SUBSECTION (B), A PERSON CONVICTED OF OR ADJUDICATED~~
18 ~~DELINQUENT FOR A VIOLATION OF 75 PA.C.S. § [3731] 3802 SHALL BE~~
19 ~~ASSESSED \$200 WHERE THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD~~
20 ~~OF THE PERSON IS EQUAL TO OR GREATER THAN [.15%] .16% AT THE~~
21 ~~TIME A CHEMICAL TEST IS PERFORMED ON A SAMPLE OF THE PERSON'S~~
22 ~~BREATH, BLOOD OR URINE. FOR THE PURPOSES OF THIS SUBSECTION, THE~~
23 ~~SAMPLE OF THE PERSON'S BLOOD, BREATH OR URINE SHALL BE TAKEN~~
24 ~~WITHIN [TWO] THREE HOURS AFTER THE PERSON IS PLACED UNDER~~
25 ~~ARREST.~~

26 ~~* * *~~

27 ~~SECTION 3. SECTION 7514 OF TITLE 18 IS REPEALED.~~

28 ~~SECTION 4. SECTION 5502(A)(4) AND (A.1)(1) OF TITLE 30 ARE~~
29 ~~AMENDED TO READ:~~

30 ~~§ 5502. OPERATING WATERCRAFT UNDER INFLUENCE OF ALCOHOL OR~~

1 ~~CONTROLLED SUBSTANCE.~~

2 ~~(A) GENERAL RULE. NO PERSON SHALL OPERATE OR BE IN ACTUAL~~
3 ~~PHYSICAL CONTROL OF THE MOVEMENT OF A WATERCRAFT UPON, IN OR~~
4 ~~THROUGH THE WATERS OF THIS COMMONWEALTH:~~

5 ~~* * *~~

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 OPERATING OR~~
14 ~~BEING IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A~~
15 ~~WATERCRAFT IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE~~
16 ~~BLOOD OF THE PERSON IS EQUAL TO OR GREATER THAN [0.10%]~~
17 ~~0.08% AT THE TIME A CHEMICAL TEST IS PERFORMED ON A~~
18 ~~SAMPLE OF THE PERSON'S BREATH, BLOOD OR URINE; AND~~

19 ~~(II) A MINOR HAD 0.02% OR MORE BY WEIGHT OF ALCOHOL~~
20 ~~IN HIS OR HER BLOOD AT THE TIME OF OPERATING OR BEING IN~~
21 ~~ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A WATERCRAFT~~
22 ~~IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF THE~~
23 ~~MINOR IS EQUAL TO OR GREATER THAN 0.02% AT THE TIME A~~
24 ~~CHEMICAL TEST IS PERFORMED ON A SAMPLE OF THE PERSON'S~~
25 ~~BREATH, BLOOD OR URINE.~~

26 ~~* * *~~

27 ~~SECTION 5. SECTIONS 2501(A)(4) AND (A.1)(1)(I) AND (B) AND~~
28 ~~2502(D)(2) AND (3) OF TITLE 34 ARE AMENDED TO READ:~~

29 ~~§ 2501. HUNTING OR FUR TAKING PROHIBITED WHILE UNDER INFLUENCE~~
30 ~~OF ALCOHOL OR CONTROLLED SUBSTANCE.~~

1 ~~(A) GENERAL RULE. IT IS UNLAWFUL TO HUNT OR TAKE GAME,~~
2 ~~FURBEARERS OR WILDLIFE OR AID, ABET, ASSIST OR CONSPIRE TO HUNT~~
3 ~~OR TAKE GAME, FURBEARERS OR WILDLIFE ANYWHERE IN THIS~~
4 ~~COMMONWEALTH WHILE IN POSSESSION OF A FIREARM OF ANY KIND OR A~~
5 ~~BOW AND ARROW IF:~~

6 * * *

7 ~~(4) THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD 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 HUNTING OR~~
14 ~~TAKING OF GAME, FURBEARERS OR WILDLIFE OR THE AIDING,~~
15 ~~ABETTING, ASSISTING OR CONSPIRING TO HUNT OR TAKE GAME,~~
16 ~~FURBEARERS OR WILDLIFE IF THE AMOUNT OF ALCOHOL BY WEIGHT~~
17 ~~IN THE BLOOD OF THE PERSON IS EQUAL TO OR GREATER THAN~~
18 ~~[0.10%] 0.08% AT THE TIME A CHEMICAL TEST IS PERFORMED ON~~
19 ~~A SAMPLE OF THE PERSON'S BREATH, BLOOD OR URINE; OR~~

20 * * *

21 ~~(B) PENALTY. —~~

22 ~~(1) A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL~~
23 ~~BE A SUMMARY OFFENSE IF THE AMOUNT OF ALCOHOL BY WEIGHT IN~~
24 ~~THE BLOOD OF THE INDIVIDUAL IS AT LEAST 0.08% BUT LESS THAN~~
25 ~~0.10%.~~

26 ~~(2) A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL~~
27 ~~BE A MISDEMEANOR OF THE THIRD DEGREE IF THE AMOUNT OF ALCOHOL~~
28 ~~BY WEIGHT IN THE BLOOD OF THE INDIVIDUAL IS AT LEAST 0.10%.~~

29 ~~(3) IN ADDITION TO ANY PENALTY, THE VIOLATOR SHALL BE~~
30 ~~DENIED THE RIGHT TO HUNT OR TRAP IN THIS COMMONWEALTH, WITH~~

1 ~~OR WITHOUT A LICENSE, FOR A PERIOD OF ONE YEAR.~~

2 ~~* * *~~

3 ~~§ 2502. CHEMICAL TEST TO DETERMINE AMOUNT OF ALCOHOL.~~

4 ~~* * *~~

5 ~~(D) PRESUMPTIONS FROM AMOUNT OF ALCOHOL. IF CHEMICAL~~
6 ~~ANALYSIS OF A PERSON'S BREATH, BLOOD OR URINE SHOWS:~~

7 ~~* * *~~

8 ~~(2) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF~~
9 ~~THE PERSON TESTED IS IN EXCESS OF 0.05% BUT LESS THAN [0.10%]~~
10 ~~0.08%, THIS FACT SHALL NOT GIVE RISE TO ANY PRESUMPTION THAT~~
11 ~~THE PERSON TESTED WAS OR WAS NOT UNDER THE INFLUENCE OF~~
12 ~~ALCOHOL, BUT THIS FACT MAY BE CONSIDERED WITH OTHER COMPETENT~~
13 ~~EVIDENCE IN DETERMINING WHETHER THE PERSON WAS OR WAS NOT~~
14 ~~UNDER THE INFLUENCE OF ALCOHOL.~~

15 ~~(3) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF~~
16 ~~THE PERSON TESTED IS [0.10%] 0.08% OR MORE, IT SHALL BE~~
17 ~~PRESUMED THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF~~
18 ~~ALCOHOL.~~

19 ~~* * *~~

20 ~~SECTION 6. SECTIONS 933(A)(1)(II), 1515(A)(5), 1725.3(A),~~
21 ~~3571(B)(4) AND 3573(B)(3) OF TITLE 42 ARE AMENDED TO READ:~~

22 ~~§ 933. APPEALS FROM GOVERNMENT AGENCIES.~~

23 ~~(A) GENERAL RULE. EXCEPT AS OTHERWISE PRESCRIBED BY ANY~~
24 ~~GENERAL RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO~~
25 ~~REASSIGNMENT OF MATTERS), EACH COURT OF COMMON PLEAS SHALL HAVE~~
26 ~~JURISDICTION OF APPEALS FROM FINAL ORDERS OF GOVERNMENT AGENCIES~~
27 ~~IN THE FOLLOWING CASES:~~

28 ~~(1) APPEALS FROM COMMONWEALTH AGENCIES IN THE FOLLOWING~~
29 ~~CASES:~~

30 ~~* * *~~

1 ~~(II) DETERMINATIONS OF THE DEPARTMENT OF~~
2 ~~TRANSPORTATION APPEALABLE UNDER THE FOLLOWING PROVISIONS~~
3 ~~OF TITLE 75 (RELATING TO VEHICLES):~~

4 ~~SECTION 1377 (RELATING TO JUDICIAL REVIEW).~~

5 ~~SECTION 1550 (RELATING TO JUDICIAL REVIEW).~~

6 ~~SECTION 4724(B) (RELATING TO JUDICIAL REVIEW).~~

7 ~~SECTION 7303(B) (RELATING TO JUDICIAL REVIEW).~~

8 ~~SECTION 7503(B) (RELATING TO JUDICIAL REVIEW).~~

9 ~~EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL RULES, THE~~
10 ~~VENUE SHALL BE IN THE COUNTY OF THE PRINCIPAL PLACE OF~~
11 ~~BUSINESS OF ANY SALVOR OR MESSENGER SERVICE, THE LOCATION~~
12 ~~OF ANY INSPECTION STATION INVOLVED, THE COUNTY WHERE THE~~
13 ~~ARREST FOR A VIOLATION OF 75 PA.C.S. § [3731] 3802~~
14 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
15 ~~CONTROLLED SUBSTANCE) WAS MADE IN APPEALS INVOLVING THE~~
16 ~~SUSPENSION OF OPERATING PRIVILEGES UNDER 75 PA.C.S. §~~
17 ~~1547 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF~~
18 ~~ALCOHOL OR CONTROLLED SUBSTANCE) OR THE RESIDENCE OF ANY~~
19 ~~INDIVIDUAL APPELLANT WHERE THE VENUE IS NOT OTHERWISE~~
20 ~~FIXED BY THIS SENTENCE. IN THE CASE OF A NONRESIDENT~~
21 ~~INDIVIDUAL VENUE, EXCEPT AS OTHERWISE PRESCRIBED BY~~
22 ~~GENERAL RULES, SHALL BE IN THE COUNTY IN WHICH THE~~
23 ~~OFFENSE GIVING RISE TO THE RECALL, CANCELLATION,~~
24 ~~SUSPENSION OR REVOCATION OF OPERATING PRIVILEGES~~
25 ~~OCCURRED.~~

26 ~~* * *~~

27 ~~§ 1515. JURISDICTION AND VENUE.~~

28 ~~(A) JURISDICTION. EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL~~
29 ~~RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO REASSIGNMENT~~
30 ~~OF MATTERS), DISTRICT JUSTICES SHALL, UNDER PROCEDURES~~

1 ~~PRESCRIBED BY GENERAL RULE, HAVE JURISDICTION OF ALL OF THE~~
2 ~~FOLLOWING MATTERS:~~

3 * * *

4 ~~(5) OFFENSES UNDER 75 PA.C.S. § [3731] 3802 (RELATING TO~~
5 ~~DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE),~~
6 ~~IF THE FOLLOWING CRITERIA ARE MET:~~

7 ~~(I) THE OFFENSE IS THE FIRST OFFENSE BY THE~~
8 ~~DEFENDANT UNDER SUCH PROVISION IN THIS COMMONWEALTH.~~

9 ~~(II) NO PERSONAL INJURY (OTHER THAN TO THE DEFENDANT~~
10 ~~[OR THE IMMEDIATE FAMILY OF THE DEFENDANT]) RESULTED FROM~~
11 ~~THE OFFENSE.~~

12 ~~(III) THE DEFENDANT PLEADS GUILTY.~~

13 ~~(IV) NO PROPERTY DAMAGE IN EXCESS OF \$500 OTHER THAN~~
14 ~~TO THE DEFENDANT'S PROPERTY RESULTED FROM THE VIOLATION.~~

15 ~~(V) THE DEFENDANT IS NOT SUBJECT TO THE PROVISIONS~~
16 ~~OF CHAPTER 63 (RELATING TO JUVENILE MATTERS).~~

17 ~~(VI) THE ARRESTING AUTHORITY SHALL CAUSE TO BE~~
18 ~~TRANSMITTED A COPY OF THE CHARGE OF ANY VIOLATION OF 75~~
19 ~~PA.C.S. § [3731] 3802 TO THE OFFICE OF THE CLERK OF THE~~
20 ~~COURT OF COMMON PLEAS WITHIN FIVE DAYS AFTER THE~~
21 ~~PRELIMINARY ARRAIGNMENT.~~

22 ~~IN DETERMINING THAT THE ABOVE CRITERIA ARE MET THE DISTRICT~~
23 ~~JUSTICE SHALL RELY ON THE CERTIFICATION OF THE ARRESTING~~
24 ~~AUTHORITY. CERTIFICATION THAT THE CRITERIA ARE MET NEED NOT~~
25 ~~BE IN WRITING. WITHIN TEN DAYS AFTER THE DISPOSITION, THE~~
26 ~~DISTRICT JUSTICE SHALL CERTIFY THE DISPOSITION TO THE OFFICE~~
27 ~~OF THE CLERK OF THE COURT OF COMMON PLEAS IN WRITING.~~

28 * * *

29 ~~§ 1725.3. CRIMINAL LABORATORY USER FEE.~~

30 ~~(A) IMPOSITION. A PERSON WHO IS PLACED ON PROBATION WITHOUT~~

1 ~~VERDICT PURSUANT TO SECTION 17 OF THE ACT OF APRIL 14, 1972~~
2 ~~(P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,~~
3 ~~DEVICE AND COSMETIC ACT, OR WHO RECEIVES ACCELERATED~~
4 ~~REHABILITATIVE DISPOSITION OR WHO PLEADS GUILTY TO OR NOLO~~
5 ~~CONTENDERE TO OR WHO IS CONVICTED OF A CRIME AS DEFINED IN 18~~
6 ~~PA.C.S. § 106 (RELATING TO CLASSES OF OFFENSES) OR 75 PA.C.S. §~~
7 ~~{3731} 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
8 ~~CONTROLLED SUBSTANCE) OR 3735 (RELATING TO HOMICIDE BY VEHICLE~~
9 ~~WHILE DRIVING UNDER INFLUENCE) OR A VIOLATION OF THE CONTROLLED~~
10 ~~SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT SHALL, IN ADDITION TO~~
11 ~~ANY FINES, PENALTIES OR COSTS, IN EVERY CASE WHERE LABORATORY~~
12 ~~SERVICES WERE REQUIRED TO PROSECUTE THE CRIME OR VIOLATION, BE~~
13 ~~SENTENCED TO PAY A CRIMINAL LABORATORY USER FEE WHICH SHALL~~
14 ~~INCLUDE, BUT NOT BE LIMITED TO, THE COST OF SENDING A LABORATORY~~
15 ~~TECHNICIAN TO COURT PROCEEDINGS.~~

16 * * *

17 ~~§ 3571. COMMONWEALTH PORTION OF FINES, ETC.~~

18 * * *

19 ~~(B) VEHICLE OFFENSES.~~

20 * * *

21 ~~(4) WHEN PROSECUTION UNDER 75 PA.C.S. § {3731} 3802~~
22 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
23 ~~SUBSTANCE) IS THE RESULT OF STATE POLICE ACTION, 50% OF ALL~~
24 ~~FINES, FORFEITED RECOGNIZANCES AND OTHER FORFEITURES IMPOSED,~~
25 ~~LOST OR FORFEITED SHALL BE PAYABLE TO THE COMMONWEALTH, FOR~~
26 ~~CREDIT TO THE MOTOR LICENSE FUND, AND 50% SHALL BE PAYABLE TO~~
27 ~~THE COUNTY WHICH SHALL BE FURTHER DIVIDED AS FOLLOWS:~~

28 ~~(I) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE~~
29 ~~ALLOCATED TO THE APPROPRIATE COUNTY AUTHORITY WHICH~~
30 ~~IMPLEMENTS THE COUNTY DRUG AND ALCOHOL PROGRAM TO BE USED~~

1 ~~SOLELY FOR THE PURPOSES OF AIDING PROGRAMS PROMOTING DRUG~~
2 ~~ABUSE AND ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND~~
3 ~~RESEARCH. PROGRAMS UNDER THIS SUBPARAGRAPH INCLUDE~~
4 ~~PROJECT DARE (DRUG AND ALCOHOL RESISTANCE EDUCATION) AND~~
5 ~~MOTHERS AGAINST DRUNK DRIVING VICTIM IMPACT PANELS.~~

6 ~~(II) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE~~
7 ~~USED FOR EXPENDITURES INCURRED FOR COUNTY JAILS, PRISONS,~~
8 ~~WORKHOUSES AND DETENTION CENTERS.~~

9 ~~* * *~~

10 ~~§ 3573. MUNICIPAL CORPORATION PORTION OF FINES, ETC.~~

11 ~~* * *~~

12 ~~(B) VEHICLE OFFENSES.~~

13 ~~* * *~~

14 ~~(3) WHEN PROSECUTION UNDER 75 PA.C.S. § [3731] 3802~~
15 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
16 ~~SUBSTANCE) IS THE RESULT OF LOCAL POLICE ACTION, 50% OF ALL~~
17 ~~FINES, FORFEITED RECOGNIZANCES AND OTHER FORFEITURES IMPOSED,~~
18 ~~LOST OR FORFEITED SHALL BE PAYABLE TO THE MUNICIPAL~~
19 ~~CORPORATION UNDER WHICH THE LOCAL POLICE ARE ORGANIZED, AND~~
20 ~~50% SHALL BE PAYABLE TO THE COUNTY WHICH SHALL BE FURTHER~~
21 ~~DIVIDED AS FOLLOWS:~~

22 ~~(I) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE~~
23 ~~ALLOCATED TO THE APPROPRIATE COUNTY AUTHORITY WHICH~~
24 ~~IMPLEMENTS THE COUNTY DRUG AND ALCOHOL PROGRAM TO BE USED~~
25 ~~SOLELY FOR THE PURPOSES OF AIDING PROGRAMS PROMOTING DRUG~~
26 ~~ABUSE AND ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND~~
27 ~~RESEARCH. PROGRAMS UNDER THIS SUBPARAGRAPH INCLUDE~~
28 ~~PROJECT DARE (DRUG AND ALCOHOL RESISTANCE EDUCATION) AND~~
29 ~~MOTHERS AGAINST DRUNK DRIVING VICTIM IMPACT PANELS.~~

30 ~~(II) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE~~

1 ~~USED FOR EXPENDITURES INCURRED FOR COUNTY JAILS, PRISONS,~~
2 ~~WORKHOUSES AND DETENTION CENTERS.~~

3 ~~* * *~~

4 ~~SECTION 7. CHAPTER 70 OF TITLE 42 IS REPEALED.~~

5 ~~SECTION 8. SECTION 9763(C) OF TITLE 42 IS AMENDED TO READ:~~

6 ~~§ 9763. SENTENCE OF INTERMEDIATE PUNISHMENT.~~

7 ~~* * *~~

8 ~~(C) RESTRICTION.~~

9 ~~(1) A DEFENDANT [CONVICTED UNDER] SUBJECT TO 75 PA.C.S.~~
10 ~~§ [3731(E) (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
11 ~~CONTROLLED SUBSTANCE)] 3804 (RELATING TO PENALTIES) MAY ONLY~~
12 ~~BE SENTENCED TO INTERMEDIATE PUNISHMENT:~~

13 ~~{(1) IN A RESIDENTIAL INPATIENT PROGRAM OR IN A~~
14 ~~RESIDENTIAL REHABILITATIVE CENTER; OR~~

15 ~~(2) BY HOUSE ARREST OR ELECTRONIC SURVEILLANCE COMBINED~~
16 ~~WITH DRUG AND ALCOHOL TREATMENT.}~~

17 ~~(I) FOR A FIRST, SECOND OR THIRD OFFENSE UNDER 75~~
18 ~~PA.C.S. CH. 38 (RELATING TO DRIVING WHILE IMPAIRED); AND~~

19 ~~(II) AFTER UNDERGOING AN ASSESSMENT UNDER 75 PA.C.S.~~
20 ~~§ 3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS).~~

21 ~~(2) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF DRUG~~
22 ~~AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY BE SENTENCED TO~~
23 ~~INTERMEDIATE PUNISHMENT WHICH INCLUDES PARTICIPATION IN DRUG~~
24 ~~AND ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C) (RELATING TO~~
25 ~~MANDATORY SENTENCING). SUCH TREATMENT MAY BE COMBINED WITH~~
26 ~~HOUSE ARREST WITH ELECTRONIC SURVEILLANCE OR A PARTIAL~~
27 ~~CONFINEMENT PROGRAM, SUCH AS WORK RELEASE, A WORK CAMP OR A~~
28 ~~HALFWAY FACILITY.~~

29 ~~(3) IF THE DEFENDANT IS DETERMINED NOT TO BE IN NEED OF~~
30 ~~DRUG AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY BE~~

1 ~~SENTENCED TO INTERMEDIATE PUNISHMENT:~~

2 ~~(I) BY HOUSE ARREST OR ELECTRONIC SURVEILLANCE;~~

3 ~~(II) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK~~

4 ~~RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR~~

5 ~~(III) ANY COMBINATION OF THE PROGRAMS SET FORTH IN~~

6 ~~THIS SUBSECTION.~~

7 * * *

8 SECTION 8.1. SECTION 9804(B)(3) OF TITLE 42 IS AMENDED AND
9 THE SUBSECTION IS AMENDED BY ADDING PARAGRAPHS TO READ:

10 § 9804. COUNTY INTERMEDIATE PUNISHMENT PROGRAMS.

11 * * *

12 (B) ELIGIBILITY.

13 * * *

14 [(3) ANY PERSON RECEIVING A PENALTY IMPOSED PURSUANT TO
15 75 PA.C.S. § 1543(B) (RELATING TO DRIVING WHILE OPERATING
16 PRIVILEGE IS SUSPENDED OR REVOKED) OR 3731(E) (RELATING TO
17 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)
18 MAY ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT PROGRAM IN:

19 (I) A RESIDENTIAL INPATIENT PROGRAM OR A RESIDENTIAL
20 REHABILITATIVE CENTER;

21 (II) HOUSE ARREST AND ELECTRONIC SURVEILLANCE
22 COMBINED WITH DRUG AND ALCOHOL TREATMENT; OR

23 (III) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK
24 RELEASE, WORK CAMPS AND HALFWAY FACILITIES, COMBINED WITH
25 DRUG AND ALCOHOL TREATMENT.]

26 (4) (I) ANY PERSON RECEIVING A PENALTY IMPOSED PURSUANT
27 TO 75 PA.C.S. § 1543(B) (RELATING TO DRIVING WHILE
28 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED) OR 3804
29 (RELATING TO PENALTIES) SHALL UNDERGO AN ASSESSMENT UNDER
30 75 PA.C.S. § 3814 (RELATING TO DRUG AND ALCOHOL

1 ~~ASSESSMENTS).~~

2 ~~(II) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF~~
3 ~~DRUG AND ALCOHOL TREATMENT, A SENTENCE TO INTERMEDIATE~~
4 ~~PUNISHMENT SHALL INCLUDE PARTICIPATION IN DRUG AND~~
5 ~~ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C) (RELATING TO~~
6 ~~MANDATORY SENTENCING). SUCH TREATMENT MAY BE COMBINED~~
7 ~~WITH HOUSE ARREST WITH ELECTRONIC SURVEILLANCE OR A~~
8 ~~PARTIAL CONFINEMENT PROGRAM, SUCH AS WORK RELEASE, A WORK~~
9 ~~CAMP OR A HALFWAY FACILITY.~~

10 ~~(III) IF THE DEFENDANT IS DETERMINED NOT TO BE IN~~
11 ~~NEED OF DRUG AND ALCOHOL TREATMENT, THE DEFENDANT MAY~~
12 ~~ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT PROGRAM IN:~~

13 ~~(A) HOUSE ARREST AND ELECTRONIC SURVEILLANCE;~~

14 ~~(B) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK~~
15 ~~RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR~~

16 ~~(C) ANY COMBINATION OF THE PROGRAMS SET FORTH IN~~
17 ~~THIS PARAGRAPH.~~

18 ~~(5) A DEFENDANT SUBJECT TO 75 PA.C.S. § 3804 (RELATING TO~~
19 ~~PENALTIES) MAY ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT~~
20 ~~FOR A FIRST, SECOND OR THIRD OFFENSE UNDER 75 PA.C.S. CH. 38~~
21 ~~(RELATING TO DRIVING WHILE IMPAIRED).~~

22 ~~SECTION 9. SECTION 1332(B) OF TITLE 75 IS AMENDED AND THE~~
23 ~~SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:~~

24 ~~§ 1332. DISPLAY OF REGISTRATION PLATE.~~

25 ~~* * *~~

26 ~~(B) OBSCURING PLATE. IT IS UNLAWFUL TO DISPLAY ON ANY~~
27 ~~VEHICLE A REGISTRATION PLATE WHICH:~~

28 ~~(1) IS SO DIRTY AS TO PREVENT THE READING OF THE NUMBER~~
29 ~~OR LETTERS THEREON AT A REASONABLE DISTANCE [OR];~~

30 ~~(2) IS OBSCURED IN ANY MANNER WHICH INHIBITS THE PROPER~~

~~OPERATION OF AN AUTOMATED RED LIGHT ENFORCEMENT SYSTEM IN PLACE PURSUANT TO SECTION 3116 (RELATING TO AUTOMATED RED LIGHT ENFORCEMENT SYSTEM IN FIRST CLASS CITIES); OR~~

~~(3) IS OTHERWISE ILLEGIBLE AT A REASONABLE DISTANCE OR IS OBSCURED IN ANY MANNER.~~

~~(C) PENALTY. ANY PERSON WHO VIOLATES THIS SECTION COMMITS A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF \$100 FOR THE FIRST OFFENSE AND \$200 FOR EACH SUBSEQUENT OFFENSE.~~

~~SECTION 10. SECTIONS 1516(C) AND (D) AND 1532(B)(3) OF TITLE 75 ARE AMENDED TO READ:~~

~~§ 1516. DEPARTMENT RECORDS.~~

~~* * *~~

~~(C) DISMISSAL OF CHARGES FOR VIOLATIONS. IF A CHARGE FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS TITLE AGAINST ANY PERSON IS DISMISSED WHERE THERE HAVE BEEN NO PRIOR CONVICTIONS BY ANY COURT OF COMPETENT JURISDICTION, NO RECORD OF THE CHARGE AND DISMISSAL SHALL BE INCLUDED IN THE DRIVING RECORD OF THE PERSON. IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED OF THE CHARGE AND SUSPENSION WAS IMPOSED BY THE DEPARTMENT, WHICH SUSPENSION WAS EITHER PARTIALLY OR FULLY SERVED, THE DEPARTMENT MAY KEEP A RECORD OF THE OFFENSE FOR THE PURPOSE OF SHOWING THE SUSPENSION WAS IMPOSED AGAINST THE PERSON[.], BUT THE OFFENSE SHALL NOT BE USED FOR THE PURPOSE OF CALCULATING THE REQUISITE NUMBER OF OFFENSES UNDER SECTION 1542 (RELATING TO REVOCATION OF HABITUAL OFFENDER'S LICENSE). IN ADDITION, THE DEPARTMENT MAY KEEP RECORDS OF CHARGES THAT HAVE BEEN FILED WITH THE COURTS IN ORDER TO DETERMINE A PERSON'S ELIGIBILITY FOR A PROBATIONARY LICENSE UNDER THE PROVISIONS OF SECTION 1554(B)(3) (RELATING TO PROBATIONARY LICENSE). ALL RECORDS MAINTAINED PURSUANT TO THIS~~

1 ~~SUBSECTION SHALL BE MAINTAINED FOR ADMINISTRATIVE AND LAW~~
2 ~~ENFORCEMENT USE ONLY AND SHALL NOT BE RELEASED FOR ANY OTHER~~
3 ~~PURPOSE.~~

4 ~~(D) UPDATING DRIVING RECORD. DRIVERS WISHING TO HAVE THEIR~~
5 ~~RECORD REVIEWED BY THE DEPARTMENT MAY MAKE SUCH A REQUEST IN~~
6 ~~ORDER THAT THE RECORD BE BROUGHT UP TO DATE. IN UPDATING~~
7 ~~RECORDS, THE DEPARTMENT SHALL INCLUDE RECALCULATION OF~~
8 ~~SUSPENSION OR REVOCATION SEGMENTS AND THE ASSIGNMENT AND~~
9 ~~CREDITING OF ANY SUSPENSION OR REVOCATION TIME PREVIOUSLY~~
10 ~~ASSIGNED OR CREDITED TOWARD A SUSPENSION OR REVOCATION WHICH~~
11 ~~RESULTED FROM A CONVICTION WHICH HAS BEEN VACATED, OVERTURNED,~~
12 ~~DISMISSED OR WITHDRAWN. ANY FULLY OR PARTIALLY SERVED SUSPENSION~~
13 ~~OR REVOCATION TIME MAY ONLY BE REASSIGNED OR CREDITED TOWARD A~~
14 ~~SUSPENSION OR REVOCATION SEGMENT PROCESSED ON THE DRIVER'S~~
15 ~~RECORD AS OF THE ACTUAL COMMENCEMENT DATE OF THE FULLY OR~~
16 ~~PARTIALLY SERVED SUSPENSION OR REVOCATION TIME.~~

17 ~~§ 1532. SUSPENSION OF OPERATING PRIVILEGE.~~

18 ~~* * *~~

19 ~~(B) SUSPENSION.~~

20 ~~* * *~~

21 ~~(3) THE DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE~~
22 ~~OF ANY DRIVER FOR 12 MONTHS UPON RECEIVING A CERTIFIED RECORD~~
23 ~~OF THE DRIVER'S CONVICTION OF SECTION [3731 (RELATING TO~~
24 ~~DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)~~
25 ~~OR] 3733 (RELATING TO FLEEING OR ATTEMPTING TO ELUDE POLICE~~
26 ~~OFFICER)[,] OR A SUBSTANTIALLY SIMILAR [OFFENSES] OFFENSE~~
27 ~~REPORTED TO THE DEPARTMENT UNDER ARTICLE III OF SECTION 1581~~
28 ~~(RELATING TO DRIVER'S LICENSE COMPACT), OR AN ADJUDICATION OF~~
29 ~~DELINQUENCY BASED ON SECTION [3731 OR] 3733. THE DEPARTMENT~~
30 ~~SHALL SUSPEND THE OPERATING PRIVILEGE OF ANY DRIVER FOR SIX~~

1 MONTHS UPON RECEIVING A CERTIFIED RECORD OF A CONSENT DECREE
2 GRANTED UNDER 42 PA.C.S. CH. 63 (RELATING TO JUVENILE
3 MATTERS) BASED ON SECTION [3731 OR] 3733.

4 * * *

5 SECTION 11. SECTION 1534(B) OF TITLE 75 IS AMENDED AND THE
6 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

7 § 1534. NOTICE OF ACCEPTANCE OF ACCELERATED REHABILITATIVE
8 DISPOSITION.

9 * * *

10 (B) EXCEPTION. IF A PERSON IS ARRESTED FOR ANY OFFENSE
11 ENUMERATED IN SECTION [3731] 3802 (RELATING TO DRIVING UNDER
12 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND IS OFFERED AND
13 ACCEPTS ACCELERATED REHABILITATIVE DISPOSITION UNDER GENERAL
14 RULES, THE COURT SHALL PROMPTLY NOTIFY THE DEPARTMENT. THE
15 DEPARTMENT SHALL MAINTAIN A RECORD OF THE ACCEPTANCE OF
16 ACCELERATED REHABILITATIVE DISPOSITION FOR A PERIOD OF [SEVEN]
17 TEN YEARS FROM THE DATE OF NOTIFICATION. THIS RECORD SHALL NOT
18 BE EXPUNGED [BY ORDER OF COURT.] PRIOR TO THE EXPIRATION OF THE
19 TEN YEAR PERIOD.

20 (C) EXPUNGEMENT. IMMEDIATELY FOLLOWING THE EXPIRATION OF
21 THE TEN YEAR PERIOD, THE DEPARTMENT SHALL EXPUNGE THE RECORD OF
22 THE ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION. THE
23 DEPARTMENT SHALL NOT REQUIRE AN ORDER OF COURT TO EXPUNGE THE
24 RECORD.

25 (D) EXCEPTIONS TO EXPUNGEMENT. THE DEPARTMENT SHALL NOT BE
26 REQUIRED TO EXPUNGE THE RECORD OF ACCEPTANCE OF ACCELERATED
27 REHABILITATIVE DISPOSITION IF:

28 (1) DURING THE TEN YEAR PERIOD, THE DEPARTMENT REVOKES
29 THE OPERATING PRIVILEGES OF A PERSON PURSUANT TO SECTION 1542
30 (RELATING TO REVOCATION OF HABITUAL OFFENDER'S LICENSE); OR

1 ~~(2) THE PERSON WAS A COMMERCIAL DRIVER AT THE TIME OF~~
2 ~~THE VIOLATION CAUSING THE DISPOSITION.~~

3 ~~SECTION 12. SECTIONS 1541(A.1) AND (D), 1542(B), 1543(B) AND~~
4 ~~1547(B)(1), (C), (D), (E) AND (I) OF TITLE 75 ARE AMENDED TO~~
5 ~~READ:~~

6 ~~§ 1541. PERIOD OF DISQUALIFICATION, REVOCATION OR SUSPENSION OF~~
7 ~~OPERATING PRIVILEGE.~~

8 ~~* * *~~

9 ~~(A.1) CREDIT TOWARD SERVING PERIOD OF SUSPENSION FOR CERTAIN~~
10 ~~VIOLATIONS. CREDIT TOWARD SERVING THE PERIOD OF SUSPENSION OR~~
11 ~~REVOCATION IMPOSED FOR SECTIONS [3731 (RELATING TO DRIVING UNDER~~
12 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE),] 3732 (RELATING~~
13 ~~TO HOMICIDE BY VEHICLE), 3735 (RELATING TO HOMICIDE BY VEHICLE~~
14 ~~WHILE DRIVING UNDER THE INFLUENCE) [AND], 3735.1 (RELATING TO~~
15 ~~AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE INFLUENCE)~~
16 ~~AND 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
17 ~~CONTROLLED SUBSTANCE) SHALL NOT COMMENCE UNTIL THE DATE OF THE~~
18 ~~PERSON'S RELEASE FROM PRISON.~~

19 ~~* * *~~

20 ~~(D) CONTINUED SUSPENSION OF OPERATING PRIVILEGE. A~~
21 ~~DEFENDANT ORDERED BY THE COURT UNDER SECTION [1548] 3816~~
22 ~~(RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE~~
23 ~~OFFENDERS), AS THE RESULT OF A CONVICTION OR ACCELERATED~~
24 ~~REHABILITATIVE DISPOSITION OF A VIOLATION OF SECTION [3731~~
25 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
26 ~~SUBSTANCE)] 3802, TO ATTEND A TREATMENT PROGRAM FOR ALCOHOL OR~~
27 ~~DRUG ADDICTION MUST SUCCESSFULLY COMPLETE ALL REQUIREMENTS OF~~
28 ~~THE TREATMENT PROGRAM ORDERED BY THE COURT BEFORE THE~~
29 ~~DEFENDANT'S OPERATING PRIVILEGE MAY BE RESTORED. SUCCESSFUL~~
30 ~~COMPLETION OF A TREATMENT PROGRAM INCLUDES THE PAYMENT OF ALL~~

1 ~~COURT IMPOSED FINES AND COSTS, AS WELL AS FEES TO BE PAID TO THE~~
2 ~~TREATMENT PROGRAM BY THE DEFENDANT. IF A DEFENDANT FAILS TO~~
3 ~~SUCCESSFULLY COMPLETE THE REQUIREMENTS OF A TREATMENT PROGRAM,~~
4 ~~THE SUSPENSION SHALL REMAIN IN EFFECT UNTIL THE DEFENDANT~~
5 ~~COMPLETES THE PROGRAM AND IS OTHERWISE ELIGIBLE FOR RESTORATION~~
6 ~~OF HIS OPERATING PRIVILEGE. THE TREATMENT AGENCY SHALL~~
7 ~~IMMEDIATELY NOTIFY THE COURT OF SUCCESSFUL COMPLETION OF THE~~
8 ~~TREATMENT PROGRAM. THE FINAL DECISION AS TO WHETHER A DEFENDANT~~
9 ~~HAS SUCCESSFULLY COMPLETED THE TREATMENT PROGRAM RESTS WITH THE~~
10 ~~COURT.~~

11 ~~§ 1542. REVOCATION OF HABITUAL OFFENDER'S LICENSE.~~

12 ~~* * *~~

13 ~~(B) OFFENSES ENUMERATED. THREE CONVICTIONS ARISING FROM~~
14 ~~SEPARATE ACTS OF ANY ONE OR MORE OF THE FOLLOWING OFFENSES~~
15 ~~COMMITTED BY ANY PERSON SHALL RESULT IN SUCH PERSON BEING~~
16 ~~DESIGNATED AS A HABITUAL OFFENDER:~~

17 ~~(1) ANY VIOLATION OF SUBCHAPTER B OF CHAPTER 37~~

18 ~~(RELATING TO SERIOUS TRAFFIC OFFENSES).~~

19 ~~(1.1) ANY VIOLATION OF CHAPTER 38 (RELATING TO DRIVING~~
20 ~~WHILE IMPAIRED).~~

21 ~~(2) ANY VIOLATION OF SECTION 3367 (RELATING TO RACING ON~~
22 ~~HIGHWAYS).~~

23 ~~(3) ANY VIOLATION OF SECTION 3742 (RELATING TO ACCIDENTS~~
24 ~~INVOLVING DEATH OR PERSONAL INJURY).~~

25 ~~(3.1) ANY VIOLATION OF SECTION 3742.1 (RELATING TO~~
26 ~~ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY WHILE NOT~~
27 ~~PROPERLY LICENSED).~~

28 ~~(4) ANY VIOLATION OF SECTION 3743 (RELATING TO ACCIDENTS~~
29 ~~INVOLVING DAMAGE TO ATTENDED VEHICLE OR PROPERTY).~~

30 ~~* * *~~

1 ~~§ 1543. DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR~~
2 ~~REVOKED.~~

3 * * *

4 ~~(B) CERTAIN OFFENSES.~~

5 ~~(1) A PERSON WHO DRIVES A MOTOR VEHICLE ON A HIGHWAY OR~~
6 ~~TRAFFICWAY OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S~~
7 ~~OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A CONDITION OF~~
8 ~~ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION FOR A~~
9 ~~VIOLATION OF SECTION [3731] 3802 (RELATING TO DRIVING UNDER~~
10 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) OR BECAUSE OF A~~
11 ~~VIOLATION OF SECTION 1547(B)(1) (RELATING TO SUSPENSION FOR~~
12 ~~REFUSAL) OR [3731] 3802 OR IS SUSPENDED UNDER SECTION 1581~~
13 ~~(RELATING TO DRIVER'S LICENSE COMPACT) FOR AN OFFENSE~~
14 ~~SUBSTANTIALLY SIMILAR TO A VIOLATION OF SECTION [3731] 3802~~
15 ~~SHALL, UPON CONVICTION, BE GUILTY OF A SUMMARY OFFENSE AND~~
16 ~~SHALL BE SENTENCED TO PAY A FINE OF [\$1,000] \$500 AND TO~~
17 ~~UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN [90] 60~~
18 ~~DAYS.~~

19 ~~(1.1) (I) A PERSON WHO HAS AN AMOUNT OF ALCOHOL BY~~
20 ~~WEIGHT IN HIS BLOOD THAT IS EQUAL TO OR GREATER THAN .02%~~
21 ~~OR [IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE AS~~
22 ~~DEFINED IN SECTION 1603 (RELATING TO DEFINITIONS)] WHO~~
23 ~~HAS ANY AMOUNT OF A SCHEDULE I, II OR III CONTROLLED~~
24 ~~SUBSTANCE, AS DEFINED IN THE ACT OF APRIL 14, 1972~~
25 ~~(P.L. 233, NO. 64), KNOWN AS THE CONTROLLED SUBSTANCE,~~
26 ~~DRUG, DEVICE AND COSMETIC ACT, OR ITS METABOLITE, WHICH~~
27 ~~HAS NOT BEEN MEDICALLY PRESCRIBED FOR THE INDIVIDUAL AND~~
28 ~~WHO DRIVES A MOTOR VEHICLE ON ANY HIGHWAY OR TRAFFICWAY~~
29 ~~OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S~~
30 ~~OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A~~

1 ~~CONDITION OF ACCEPTANCE OF ACCELERATED REHABILITATIVE~~
2 ~~DISPOSITION FOR A VIOLATION OF SECTION [3731] 3802 OR~~
3 ~~BECAUSE OF A VIOLATION OF SECTION 1547(B)(1) OR [3731]~~
4 ~~3802 OR IS SUSPENDED UNDER SECTION 1581 FOR AN OFFENSE~~
5 ~~SUBSTANTIALLY SIMILAR TO A VIOLATION OF SECTION [3731]~~
6 ~~3802 SHALL, UPON A FIRST CONVICTION, BE GUILTY OF A~~
7 ~~SUMMARY OFFENSE AND SHALL BE SENTENCED TO PAY A FINE OF~~
8 ~~\$1,000 AND TO UNDERGO IMPRISONMENT FOR A PERIOD OF NOT~~
9 ~~LESS THAN 90 DAYS.~~

10 ~~(II) A SECOND VIOLATION OF THIS PARAGRAPH SHALL~~
11 ~~CONSTITUTE A MISDEMEANOR OF THE THIRD DEGREE, AND UPON~~
12 ~~CONVICTION THEREOF THE PERSON SHALL BE SENTENCED TO PAY A~~
13 ~~FINE OF \$2,500 AND TO UNDERGO IMPRISONMENT FOR NOT LESS~~
14 ~~THAN SIX MONTHS.~~

15 ~~(III) A THIRD OR SUBSEQUENT VIOLATION OF THIS~~
16 ~~PARAGRAPH SHALL CONSTITUTE A MISDEMEANOR OF THE FIRST~~
17 ~~DEGREE, AND UPON CONVICTION THEREOF THE PERSON SHALL BE~~
18 ~~SENTENCED TO PAY A FINE OF \$5,000 AND TO UNDERGO~~
19 ~~IMPRISONMENT FOR NOT LESS THAN TWO YEARS.~~

20 ~~(2) THIS SUBSECTION SHALL APPLY TO ANY PERSON AGAINST~~
21 ~~WHOM ONE OF THESE SUSPENSIONS HAS BEEN IMPOSED WHETHER THE~~
22 ~~PERSON IS CURRENTLY SERVING THIS SUSPENSION OR WHETHER THE~~
23 ~~EFFECTIVE DATE OF SUSPENSION HAS BEEN DEFERRED UNDER ANY OF~~
24 ~~THE PROVISIONS OF SECTION 1544 (RELATING TO ADDITIONAL PERIOD~~
25 ~~OF REVOCATION OR SUSPENSION). THIS PROVISION SHALL ALSO APPLY~~
26 ~~UNTIL THE PERSON HAS HAD THE OPERATING PRIVILEGE RESTORED.~~
27 ~~THIS SUBSECTION SHALL ALSO APPLY TO ANY REVOCATION IMPOSED~~
28 ~~PURSUANT TO SECTION 1542 (RELATING TO REVOCATION OF HABITUAL~~
29 ~~OFFENDER'S LICENSE) IF ANY OF THE ENUMERATED OFFENSES WAS FOR~~
30 ~~A VIOLATION OF SECTION [3731] 3802 OR FOR AN OUT OF STATE~~

1 OFFENSE THAT IS SUBSTANTIALLY SIMILAR TO A VIOLATION OF
2 SECTION [3731] 3802 FOR WHICH A REVOCATION IS IMPOSED UNDER
3 SECTION 1581.

4 * * *

5 ~~§ 1547. CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR
6 CONTROLLED SUBSTANCE.~~

7 * * *

8 ~~(B) SUSPENSION FOR REFUSAL.~~

9 ~~(1) IF ANY PERSON PLACED UNDER ARREST FOR A VIOLATION OF
10 SECTION [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF
11 ALCOHOL OR CONTROLLED SUBSTANCE) IS REQUESTED TO SUBMIT TO
12 CHEMICAL TESTING AND REFUSES TO DO SO, THE TESTING SHALL NOT
13 BE CONDUCTED BUT UPON NOTICE BY THE POLICE OFFICER, THE
14 DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE OF THE
15 PERSON [FOR A PERIOD OF 12 MONTHS.] AS FOLLOWS:~~

16 ~~(I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (II), FOR A
17 PERIOD OF 12 MONTHS.~~

18 ~~(II) FOR A PERIOD OF 24 MONTHS IF ANY OF THE
19 FOLLOWING APPLY:~~

20 ~~(A) THE PERSON'S OPERATING PRIVILEGES HAVE
21 PREVIOUSLY BEEN SUSPENDED UNDER THIS SUBSECTION.~~

22 ~~(B) THE PERSON HAS, PRIOR TO THE REFUSAL UNDER
23 THIS PARAGRAPH, BEEN SENTENCED FOR:~~

24 ~~(I) AN OFFENSE UNDER FORMER SECTION 3731;~~

25 ~~(II) AN OFFENSE UNDER SECTION 3802 (RELATING
26 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
27 CONTROLLED SUBSTANCE);~~

28 ~~(III) AN OFFENSE EQUIVALENT TO AN OFFENSE
29 UNDER SUBCLAUSE (I) OR (II); OR~~

30 ~~(IV) A COMBINATION OF THE OFFENSES SET FORTH~~

1 ~~IN THIS CLAUSE.~~

2 * * *

3 ~~(C) TEST RESULTS ADMISSIBLE IN EVIDENCE. IN ANY SUMMARY~~
4 ~~PROCEEDING OR CRIMINAL PROCEEDING IN WHICH THE DEFENDANT IS~~
5 ~~CHARGED WITH A VIOLATION OF SECTION [3731] 3802 OR ANY OTHER~~
6 ~~VIOLATION OF THIS TITLE ARISING OUT OF THE SAME ACTION, THE~~
7 ~~AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE IN THE DEFENDANT'S~~
8 ~~BLOOD, AS SHOWN BY CHEMICAL TESTING OF THE PERSON'S BREATH,~~
9 ~~BLOOD OR URINE, WHICH TESTS WERE CONDUCTED BY QUALIFIED PERSONS~~
10 ~~USING APPROVED EQUIPMENT, SHALL BE ADMISSIBLE IN EVIDENCE.~~

11 ~~(1) CHEMICAL TESTS OF BREATH SHALL BE PERFORMED ON~~
12 ~~DEVICES APPROVED BY THE DEPARTMENT OF HEALTH USING PROCEDURES~~
13 ~~PRESCRIBED JOINTLY BY REGULATIONS OF THE DEPARTMENTS OF~~
14 ~~HEALTH AND TRANSPORTATION. DEVICES SHALL HAVE BEEN CALIBRATED~~
15 ~~AND TESTED FOR ACCURACY WITHIN A PERIOD OF TIME AND IN A~~
16 ~~MANNER SPECIFIED BY REGULATIONS OF THE DEPARTMENTS OF HEALTH~~
17 ~~AND TRANSPORTATION. FOR PURPOSES OF BREATH TESTING, A~~
18 ~~QUALIFIED PERSON MEANS A PERSON WHO HAS FULFILLED THE~~
19 ~~TRAINING REQUIREMENT IN THE USE OF THE EQUIPMENT IN A~~
20 ~~TRAINING PROGRAM APPROVED BY THE DEPARTMENTS OF HEALTH AND~~
21 ~~TRANSPORTATION. A CERTIFICATE OR LOG SHOWING THAT A DEVICE~~
22 ~~WAS CALIBRATED AND TESTED FOR ACCURACY AND THAT THE DEVICE~~
23 ~~WAS ACCURATE SHALL BE PRESUMPTIVE EVIDENCE OF THOSE FACTS IN~~
24 ~~EVERY PROCEEDING IN WHICH A VIOLATION OF THIS TITLE IS~~
25 ~~CHARGED.~~

26 ~~(2) CHEMICAL TESTS OF BLOOD OR URINE, IF CONDUCTED BY A~~
27 ~~FACILITY LOCATED IN THIS COMMONWEALTH, SHALL BE PERFORMED BY~~
28 ~~A CLINICAL LABORATORY LICENSED AND APPROVED BY THE DEPARTMENT~~
29 ~~OF HEALTH FOR THIS PURPOSE USING PROCEDURES AND EQUIPMENT~~
30 ~~PRESCRIBED BY THE DEPARTMENT OF HEALTH OR BY A PENNSYLVANIA~~

1 ~~STATE POLICE CRIMINAL LABORATORY. FOR PURPOSES OF BLOOD AND~~
2 ~~URINE TESTING, QUALIFIED PERSON MEANS AN INDIVIDUAL WHO IS~~
3 ~~AUTHORIZED TO PERFORM THOSE CHEMICAL TESTS UNDER THE ACT OF~~
4 ~~SEPTEMBER 26, 1951 (P.L.1539, NO.389), KNOWN AS THE CLINICAL~~
5 ~~LABORATORY ACT.~~

6 ~~(3) CHEMICAL TESTS OF BLOOD OR URINE, IF CONDUCTED BY A~~
7 ~~FACILITY LOCATED OUTSIDE THIS COMMONWEALTH, SHALL BE~~
8 ~~PERFORMED:~~

9 ~~(I) BY A FACILITY LICENSED BY THE DEPARTMENT OF~~
10 ~~HEALTH; OR~~

11 ~~(II) BY A FACILITY LICENSED TO CONDUCT THE TESTS BY~~
12 ~~THE STATE IN WHICH THE FACILITY IS LOCATED AND LICENSED~~
13 ~~PURSUANT TO THE CLINICAL LABORATORY IMPROVEMENT~~
14 ~~AMENDMENTS OF 1988 (PUBLIC LAW 100 578, 102 STAT. 2903).~~

15 ~~{(D) PRESUMPTIONS FROM AMOUNT OF ALCOHOL. IF CHEMICAL~~
16 ~~TESTING OF A PERSON'S BREATH, BLOOD OR URINE SHOWS:~~

17 ~~(1) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF~~
18 ~~AN ADULT IS 0.05% OR LESS, IT SHALL BE PRESUMED THAT THE~~
19 ~~ADULT WAS NOT UNDER THE INFLUENCE OF ALCOHOL AND THE ADULT~~
20 ~~SHALL NOT BE CHARGED WITH ANY VIOLATION UNDER SECTION~~
21 ~~3731(A)(1), (4) OR (5) (RELATING TO DRIVING UNDER INFLUENCE~~
22 ~~OF ALCOHOL OR CONTROLLED SUBSTANCE), OR, IF THE ADULT WAS SO~~
23 ~~CHARGED PRIOR TO THE TEST, THE CHARGE SHALL BE VOID AB~~
24 ~~INITIO. THIS FACT SHALL NOT GIVE RISE TO ANY PRESUMPTION~~
25 ~~CONCERNING A VIOLATION OF SECTION 3731(A)(2) OR (3) OR (I).~~

26 ~~(2) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF~~
27 ~~AN ADULT IS IN EXCESS OF 0.05% BUT LESS THAN 0.10%, THIS FACT~~
28 ~~SHALL NOT GIVE RISE TO ANY PRESUMPTION THAT THE ADULT WAS OR~~
29 ~~WAS NOT UNDER THE INFLUENCE OF ALCOHOL, BUT THIS FACT MAY BE~~
30 ~~CONSIDERED WITH OTHER COMPETENT EVIDENCE IN DETERMINING~~

1 ~~WHETHER THE ADULT WAS OR WAS NOT UNDER THE INFLUENCE OF~~
2 ~~ALCOHOL. THIS PROVISION SHALL NOT NEGATE THE PROVISIONS OF~~
3 ~~SECTION 3731(I).~~

4 ~~(3) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD~~
5 ~~OF:~~

6 ~~(I) AN ADULT IS 0.10% OR MORE; OR~~

7 ~~(II) A MINOR IS 0.02% OR MORE,~~

8 ~~THIS FACT MAY BE INTRODUCED INTO EVIDENCE IF THE PERSON IS~~
9 ~~CHARGED WITH VIOLATING SECTION 3731.]~~

10 ~~(E) REFUSAL ADMISSIBLE IN EVIDENCE. IN ANY SUMMARY~~

11 ~~PROCEEDING OR CRIMINAL PROCEEDING IN WHICH THE DEFENDANT IS~~

12 ~~CHARGED WITH A VIOLATION OF SECTION [3731] 3802 OR ANY OTHER~~

13 ~~VIOLATION OF THIS TITLE ARISING OUT OF THE SAME ACTION, THE FACT~~

14 ~~THAT THE DEFENDANT REFUSED TO SUBMIT TO CHEMICAL TESTING AS~~

15 ~~REQUIRED BY SUBSECTION (A) MAY BE INTRODUCED IN EVIDENCE ALONG~~

16 ~~WITH OTHER TESTIMONY CONCERNING THE CIRCUMSTANCES OF THE~~

17 ~~REFUSAL. NO PRESUMPTIONS SHALL ARISE FROM THIS EVIDENCE BUT IT~~

18 ~~MAY BE CONSIDERED ALONG WITH OTHER FACTORS CONCERNING THE~~

19 ~~CHARGE.~~

20 ~~* * *~~

21 ~~(I) REQUEST BY DRIVER FOR TEST. ANY PERSON INVOLVED IN AN~~

22 ~~ACCIDENT OR PLACED UNDER ARREST FOR A VIOLATION OF SECTION~~

23 ~~[3731] 3802 MAY REQUEST A CHEMICAL TEST OF HIS BREATH, BLOOD OR~~

24 ~~URINE. SUCH REQUESTS SHALL BE HONORED WHEN IT IS REASONABLY~~

25 ~~PRACTICABLE TO DO SO.~~

26 ~~* * *~~

27 ~~SECTION 13. SECTION 1548 OF TITLE 75 IS REPEALED.~~

28 ~~SECTION 14. SECTION 1552 OF TITLE 75 IS AMENDED TO READ:~~

29 ~~§ 1552. ACCELERATED REHABILITATIVE DISPOSITION.~~

30 ~~THE COURT OF COMMON PLEAS IN EACH JUDICIAL DISTRICT AND THE~~

1 ~~MUNICIPAL COURT OF PHILADELPHIA SHALL ESTABLISH AND IMPLEMENT A~~
2 ~~PROGRAM FOR ACCELERATED REHABILITATIVE DISPOSITION FOR PERSONS~~
3 ~~CHARGED WITH A VIOLATION OF SECTION [3731] 3802 (RELATING TO~~
4 ~~DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) IN~~
5 ~~ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER AND RULES ADOPTED~~
6 ~~BY THE SUPREME COURT.~~

7 SECTION 15. ~~SECTION 1553(D), (6), (8) AND (16), (E) AND~~
8 ~~(F)(1) ARE AMENDED AND THE SECTION IS AMENDED BY ADDING~~
9 ~~SUBSECTIONS TO READ:~~

10 ~~§ 1553. OCCUPATIONAL LIMITED LICENSE.~~

11 * * *

12 ~~(D) UNAUTHORIZED ISSUANCE. THE DEPARTMENT SHALL PROHIBIT~~
13 ~~ISSUANCE OF AN OCCUPATIONAL LIMITED LICENSE TO:~~

14 * * *

15 ~~(6) [ANY] EXCEPT AS SET FORTH IN SUBSECTION (D.1) OR~~
16 ~~(D.2) ANY PERSON WHO HAS BEEN ADJUDICATED DELINQUENT OR~~
17 ~~CONVICTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR~~
18 ~~CONTROLLED SUBSTANCE UNLESS THE SUSPENSION OR REVOCATION~~
19 ~~IMPOSED FOR THAT CONVICTION HAS BEEN FULLY SERVED.~~

20 * * *

21 ~~(8) [ANY] EXCEPT AS SET FORTH IN SUBSECTIONS (D.1) AND~~
22 ~~(D.2), ANY PERSON WHO HAS BEEN GRANTED A CONSENT DECREE OR~~
23 ~~ACCELERATED REHABILITATIVE DISPOSITION FOR DRIVING UNDER THE~~
24 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE AND WHOSE~~
25 ~~LICENSE HAS BEEN SUSPENDED BY THE DEPARTMENT UNLESS THE~~
26 ~~SUSPENSION IMPOSED HAS BEEN FULLY SERVED.~~

27 * * *

28 ~~(16) [ANY] EXCEPT AS SET FORTH IN SUBSECTION (D.3), ANY~~
29 ~~PERSON WHOSE OPERATING PRIVILEGE HAS BEEN SUSPENDED UNDER AN~~
30 ~~INTERJURISDICTIONAL AGREEMENT AS PROVIDED FOR IN SECTION 6146~~

1 AS THE RESULT OF A CONVICTION OR ADJUDICATION IF THE
2 CONVICTION OR ADJUDICATION FOR AN EQUIVALENT OFFENSE IN THIS
3 COMMONWEALTH WOULD HAVE PROHIBITED THE ISSUANCE OF AN
4 OCCUPATIONAL LIMITED LICENSE.

5 * * *

6 ~~(D.1) ADJUDICATION ELIGIBILITY. AN INDIVIDUAL WHO HAS BEEN~~
7 ~~ADJUDICATED DELINQUENT, CONVICTED, GRANTED A CONSENT DECREE OR~~
8 ~~GRANTED ACCELERATED REHABILITATION DISPOSITION FOR DRIVING UNDER~~
9 ~~THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE AND DOES NOT~~
10 ~~HAVE A PRIOR OFFENSE AS DEFINED IN SECTION 3806(A) (RELATING TO~~
11 ~~PRIOR OFFENSES) SHALL BE ELIGIBLE FOR AN OCCUPATIONAL LIMITED~~
12 ~~LICENSE.~~

13 ~~(D.2) SUSPENSION ELIGIBILITY.~~

14 ~~(1) AN INDIVIDUAL WHOSE LICENSE HAS BEEN SUSPENDED FOR A~~
15 ~~PERIOD OF 24 MONTHS UNDER SECTION 1547(B)(1)(II) (RELATING TO~~
16 ~~CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR CONTROLLED~~
17 ~~SUBSTANCE) OR 3804(E)(2)(II) (RELATING TO PENALTIES) SHALL~~
18 ~~NOT BE PROHIBITED FROM OBTAINING AN OCCUPATIONAL LIMITED~~
19 ~~LICENSE UNDER THIS SECTION IF THE INDIVIDUAL:~~

20 ~~(I) IS OTHERWISE ELIGIBLE FOR RESTORATION;~~

21 ~~(II) HAS SERVED AT LEAST 12 MONTHS OF THE LICENSE~~
22 ~~SUSPENSION;~~

23 ~~(III) ONLY OPERATES A MOTOR VEHICLE EQUIPPED WITH AN~~
24 ~~IGNITION INTERLOCK SYSTEM AS DEFINED IN SECTION 3801~~
25 ~~(RELATING TO DEFINITIONS); AND~~

26 ~~(IV) HAS CERTIFIED TO THE DEPARTMENT UNDER PARAGRAPH~~
27 ~~(3).~~

28 ~~(2) A PERIOD OF IGNITION INTERLOCK ACCEPTED UNDER THIS~~
29 ~~SUBSECTION SHALL NOT COUNT TOWARDS THE ONE YEAR MANDATORY~~
30 ~~PERIOD OF IGNITION INTERLOCK IMPOSED UNDER SECTION 3805~~

1 ~~(RELATING TO IGNITION INTERLOCK).~~

2 ~~(3) IF AN INDIVIDUAL SEEKS AN OCCUPATIONAL LIMITED~~
3 ~~LICENSE UNDER THIS SUBSECTION, THE DEPARTMENT SHALL REQUIRE~~
4 ~~THAT EACH MOTOR VEHICLE OWNED OR REGISTERED TO THE PERSON HAS~~
5 ~~BEEN EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM AS A~~
6 ~~CONDITION OF ISSUING AN OCCUPATIONAL LIMITED LICENSE WITH AN~~
7 ~~IGNITION INTERLOCK RESTRICTION.~~

8 ~~(D.3) INTERJURISDICTIONAL SUSPENSIONS. AN INDIVIDUAL WHOSE~~
9 ~~OPERATING PRIVILEGE HAS BEEN SUSPENDED PURSUANT TO AN~~
10 ~~INTERJURISDICTIONAL AGREEMENT UNDER SECTION 6146 AS THE RESULT~~
11 ~~OF AN ADJUDICATION OR CONVICTION FOR DRIVING UNDER THE INFLUENCE~~
12 ~~OF ALCOHOL OR CONTROLLED SUBSTANCE AND DOES NOT HAVE A PRIOR~~
13 ~~OFFENSE AS DEFINED IN SECTION 3806(A) SHALL BE ELIGIBLE FOR AN~~
14 ~~OCCUPATIONAL LIMITED LICENSE.~~

15 ~~(E) OFFENSES COMMITTED DURING A PERIOD FOR WHICH AN~~
16 ~~OCCUPATIONAL LIMITED LICENSE HAS BEEN ISSUED. ANY DRIVER WHO~~
17 ~~HAS BEEN ISSUED AN OCCUPATIONAL LIMITED LICENSE AND AS TO WHOM~~
18 ~~THE DEPARTMENT RECEIVES A REPORT OF CONVICTION OF AN OFFENSE FOR~~
19 ~~WHICH THE PENALTY IS A CANCELLATION, DISQUALIFICATION, RECALL,~~
20 ~~SUSPENSION OR REVOCATION OF OPERATING PRIVILEGES OR A REPORT~~
21 ~~UNDER SECTION 3815(C)(4) (RELATING TO MANDATORY SENTENCING)~~
22 ~~SHALL HAVE THE OCCUPATIONAL LIMITED LICENSE RECALLED, AND THE~~
23 ~~DRIVER SHALL SURRENDER THE LIMITED LICENSE TO THE DEPARTMENT OR~~
24 ~~ITS AGENTS DESIGNATED UNDER THE AUTHORITY OF SECTION 1540.~~

25 ~~(F) RESTRICTIONS. A DRIVER WHO HAS BEEN ISSUED AN~~
26 ~~OCCUPATIONAL LIMITED LICENSE SHALL OBSERVE THE FOLLOWING:~~

27 ~~(1) THE DRIVER SHALL OPERATE A DESIGNATED VEHICLE ONLY~~
28 ~~{BETWEEN}:~~

29 ~~(I) BETWEEN THE DRIVER'S PLACE OF RESIDENCE AND~~
30 ~~PLACE OF EMPLOYMENT OR STUDY AND AS NECESSARY IN THE~~

1 ~~COURSE OF EMPLOYMENT OR CONDUCTING A BUSINESS OR PURSUING~~
2 ~~A COURSE OF STUDY WHERE THE OPERATION OF A MOTOR VEHICLE~~
3 ~~IS A REQUIREMENT OF EMPLOYMENT OR OF CONDUCTING A~~
4 ~~BUSINESS OR OF PURSUING A COURSE OF STUDY.~~

5 ~~(II) TO AND FROM A PLACE FOR SCHEDULED OR EMERGENCY~~
6 ~~MEDICAL EXAMINATION OR TREATMENT. THIS SUBPARAGRAPH~~
7 ~~INCLUDES TREATMENT REQUIRED UNDER CHAPTER 38 (RELATING TO~~
8 ~~DRIVING WHILE IMPAIRED).~~

9 * * *

10 SECTION 16. ~~SECTIONS 1554(F)(8), 1575(B), 1586, 1611(A)(1),~~
11 ~~3101(B), 3116(L)(2) AND (Q), 3326(C), 3327(E) AND 3716(A) ARE~~
12 ~~AMENDED TO READ:~~

13 ~~§ 1554. PROBATIONARY LICENSE.~~

14 * * *

15 ~~(F) UNAUTHORIZED ISSUANCE. THE DEPARTMENT SHALL NOT ISSUE A~~
16 ~~PROBATIONARY LICENSE TO:~~

17 * * *

18 ~~(8) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF~~
19 ~~SECTION [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF~~
20 ~~ALCOHOL OR CONTROLLED SUBSTANCE) WITHIN THE PRECEDING SEVEN~~
21 ~~YEARS.~~

22 * * *

23 ~~§ 1575. PERMITTING VIOLATION OF TITLE.~~

24 * * *

25 ~~(B) PENALTY. ANY PERSON VIOLATING THE PROVISIONS OF~~
26 ~~SUBSECTION (A) IS GUILTY OF A SUMMARY OFFENSE AND IS SUBJECT TO~~
27 ~~THE SAME FINE AS THE DRIVER OF THE VEHICLE. IF THE DRIVER IS~~
28 ~~CONVICTED UNDER SECTION [3731 (RELATING TO DRIVING UNDER~~
29 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) OR] 3735 (RELATING~~
30 ~~TO HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE) OR 3802~~

1 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
2 ~~SUBSTANCE), THE PERSON VIOLATING SUBSECTION (A) SHALL ALSO BE~~
3 ~~SUBJECT TO SUSPENSION OR REVOCATION, AS APPLICABLE, UNDER~~
4 ~~SECTIONS [1532 (RELATING TO REVOCATION OR SUSPENSION OF~~
5 ~~OPERATING PRIVILEGE)] 3804(E) (RELATING TO PENALTIES) AND 1542~~
6 ~~(RELATING TO REVOCATION OF HABITUAL OFFENDER'S LICENSE).~~

7 * * *

8 § 1586. DUTIES OF DEPARTMENT.

9 THE DEPARTMENT SHALL, FOR PURPOSES OF IMPOSING A SUSPENSION
10 OR REVOCATION UNDER ARTICLE IV OF THE COMPACT, TREAT REPORTS OF
11 CONVICTIONS RECEIVED FROM PARTY STATES THAT RELATE TO DRIVING,
12 OPERATING OR BEING IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE
13 IMPAIRED BY OR UNDER THE INFLUENCE OF ALCOHOL, INTOXICATING
14 LIQUOR, DRUGS, NARCOTICS, CONTROLLED SUBSTANCES OR OTHER
15 IMPAIRING OR INTOXICATING SUBSTANCE AS BEING SUBSTANTIALLY
16 SIMILAR TO SECTION [3731] 3802 (RELATING TO DRIVING UNDER THE
17 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE). THE FACT THAT THE
18 OFFENSE REPORTED TO THE DEPARTMENT BY A PARTY STATE MAY REQUIRE
19 A DIFFERENT DEGREE OF IMPAIRMENT OF A PERSON'S ABILITY TO
20 OPERATE, DRIVE OR CONTROL A VEHICLE THAN THAT REQUIRED TO
21 SUPPORT A CONVICTION FOR A VIOLATION OF SECTION [3731] 3802
22 SHALL NOT BE A BASIS FOR DETERMINING THAT THE PARTY STATE'S
23 OFFENSE IS NOT SUBSTANTIALLY SIMILAR TO SECTION [3731] 3802 FOR
24 PURPOSES OF ARTICLE IV OF THE COMPACT.

25 § 1611. DISQUALIFICATION.

26 (A) DISQUALIFICATION FOR FIRST VIOLATION OF CERTAIN
27 OFFENSES. UPON RECEIPT OF A CERTIFIED COPY OF CONVICTION, THE
28 DEPARTMENT SHALL, IN ADDITION TO ANY OTHER PENALTIES IMPOSED
29 UNDER THIS TITLE, DISQUALIFY ANY PERSON FROM DRIVING A
30 COMMERCIAL MOTOR VEHICLE OR SCHOOL VEHICLE FOR A PERIOD OF ONE

1 ~~YEAR FOR THE FIRST VIOLATION OF:~~

2 ~~(1) SECTION [3731] 3802 (RELATING TO DRIVING UNDER THE~~
3 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE), WHERE THE~~
4 ~~VIOLATION OCCURRED WHILE THE PERSON WAS OPERATING A~~
5 ~~COMMERCIAL MOTOR VEHICLE OR SCHOOL VEHICLE;~~

6 ~~* * *~~

7 ~~§ 3101. APPLICATION OF PART.~~

8 ~~* * *~~

9 ~~(B) SERIOUS TRAFFIC OFFENSES. THE PROVISIONS OF SECTION~~
10 ~~3345 (RELATING TO MEETING OR OVERTAKING SCHOOL BUS) [AND],~~
11 ~~SUBCHAPTER B OF CHAPTER 37 (RELATING TO SERIOUS TRAFFIC~~
12 ~~OFFENSES) AND CHAPTER 38 (RELATING TO DRIVING WHILE IMPAIRED)~~
13 ~~SHALL APPLY UPON HIGHWAYS AND TRAFFICWAYS THROUGHOUT THIS~~
14 ~~COMMONWEALTH.~~

15 ~~§ 3116. AUTOMATED RED LIGHT ENFORCEMENT SYSTEMS IN FIRST CLASS~~
16 ~~CITIES.~~

17 ~~* * *~~

18 ~~(L) PAYMENT OF FINE.~~

19 ~~* * *~~

20 ~~(2) PAYMENT MUST BE MADE PERSONALLY, THROUGH AN~~
21 ~~AUTHORIZED AGENT OR BY MAILING BOTH PAYMENT AND THE NOTICE OF~~
22 ~~VIOLATION TO THE SYSTEM ADMINISTRATOR. PAYMENT BY MAIL MUST~~
23 ~~BE MADE ONLY BY MONEY ORDER, CREDIT CARD OR CHECK MADE~~
24 ~~PAYABLE TO THE SYSTEM ADMINISTRATOR. THE SYSTEM ADMINISTRATOR~~
25 ~~SHALL REMIT THE FINE, LESS THE SYSTEM ADMINISTRATOR'S~~
26 ~~OPERATION AND MAINTENANCE COSTS NECESSITATED BY THIS SECTION,~~
27 ~~TO THE DEPARTMENT FOR DEPOSIT INTO THE MOTOR LICENSE FUND.~~
28 ~~FINES DEPOSITED IN THE FUND UNDER THIS PARAGRAPH SHALL BE~~
29 ~~USED BY THE DEPARTMENT [AS FOLLOWS:]~~

30 ~~(I) TO REIMBURSE THE SYSTEM ADMINISTRATOR FOR COSTS~~

1 ~~ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION. THIS~~
2 ~~SUBPARAGRAPH INCLUDES COSTS FOR OPERATION AND~~
3 ~~MAINTENANCE.~~

4 ~~(II) TO DEVELOP, BY REGULATION, A TRANSPORTATION~~
5 ~~ENHANCEMENTS GRANT PROGRAM.] TO DEVELOP, BY REGULATION, A~~
6 ~~TRANSPORTATION ENHANCEMENTS GRANT PROGRAM.~~

7 ~~* * *~~

8 ~~(Q) EXPIRATION. THIS SECTION SHALL EXPIRE DECEMBER 31,~~
9 ~~{2006} 2007.~~

10 ~~§ 3326. DUTY OF DRIVER IN CONSTRUCTION AND MAINTENANCE AREAS OR~~
11 ~~ON HIGHWAY SAFETY CORRIDORS.~~

12 ~~* * *~~

13 ~~(C) FINES TO BE DOUBLED. FOR ANY OF THE FOLLOWING~~
14 ~~VIOLATIONS, WHEN COMMITTED IN AN ACTIVE WORK ZONE MANNED BY~~
15 ~~WORKERS ACTING IN THEIR OFFICIAL CAPACITY OR ON A HIGHWAY SAFETY~~
16 ~~CORRIDOR DESIGNATED UNDER SECTION 6105.1 (RELATING TO~~
17 ~~DESIGNATION OF HIGHWAY SAFETY CORRIDORS), THE FINE SHALL BE~~
18 ~~DOUBLE THE USUAL AMOUNT:~~

19 ~~SECTION 3102 (RELATING TO OBEDIENCE TO AUTHORIZED~~
20 ~~PERSONS DIRECTING TRAFFIC).~~

21 ~~SECTION 3111 (RELATING TO OBEDIENCE TO TRAFFIC~~
22 ~~CONTROL DEVICES).~~

23 ~~SECTION 3112 (RELATING TO TRAFFIC CONTROL SIGNALS).~~

24 ~~SECTION 3114 (RELATING TO FLASHING SIGNALS).~~

25 ~~SECTION 3302 (RELATING TO MEETING VEHICLE PROCEEDING~~
26 ~~IN OPPOSITE DIRECTION).~~

27 ~~SECTION 3303 (RELATING TO OVERTAKING VEHICLE ON THE~~
28 ~~LEFT).~~

29 ~~SECTION 3304 (RELATING TO OVERTAKING VEHICLE ON THE~~
30 ~~RIGHT).~~

1 ~~SECTION 3305 (RELATING TO LIMITATIONS ON OVERTAKING~~
2 ~~ON THE LEFT).~~

3 ~~SECTION 3306 (RELATING TO LIMITATIONS ON DRIVING ON~~
4 ~~LEFT SIDE OF ROADWAY).~~

5 ~~SECTION 3307 (RELATING TO NO PASSING ZONES).~~

6 ~~SECTION 3309 (RELATING TO DRIVING ON ROADWAYS LANED~~
7 ~~FOR TRAFFIC).~~

8 ~~SECTION 3310 (RELATING TO FOLLOWING TOO CLOSELY).~~

9 ~~SECTION 3323 (RELATING TO STOP SIGNS AND YIELD~~
10 ~~SIGNS).~~

11 ~~SECTION 3326 (RELATING TO DUTY OF DRIVER IN~~
12 ~~CONSTRUCTION AND MAINTENANCE AREAS).~~

13 ~~SECTION 3361 (RELATING TO DRIVING VEHICLE AT SAFE~~
14 ~~SPEED).~~

15 ~~SECTION 3362 (RELATING TO MAXIMUM SPEED LIMITS).~~

16 ~~SECTION 3702 (RELATING TO LIMITATIONS ON BACKING).~~

17 ~~SECTION 3714 (RELATING TO CARELESS DRIVING).~~

18 ~~SECTION 3715 (RELATING TO RESTRICTION ON ALCOHOLIC~~
19 ~~BEVERAGES).~~

20 ~~{SECTION 3731 (RELATING TO DRIVING UNDER INFLUENCE OF~~
21 ~~ALCOHOL OR CONTROLLED SUBSTANCE).}~~

22 ~~SECTION 3736 (RELATING TO RECKLESS DRIVING).~~

23 ~~SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF~~
24 ~~ALCOHOL OR CONTROLLED SUBSTANCE).~~

25 ~~* * *~~

26 ~~§ 3327. DUTY OF DRIVER IN EMERGENCY RESPONSE AREAS.~~

27 ~~* * *~~

28 ~~(E) FINES TO BE DOUBLED. IN ADDITION TO ANY PENALTY AS~~
29 ~~PROVIDED IN SUBSECTION (B), THE FINE FOR ANY OF THE FOLLOWING~~
30 ~~VIOLATIONS WHEN COMMITTED IN AN EMERGENCY RESPONSE AREA MANNED~~

1 ~~BY EMERGENCY SERVICE RESPONDERS SHALL BE DOUBLE THE USUAL~~
2 ~~AMOUNT.~~

3 ~~SECTION 3102 (RELATING TO OBEDIENCE TO AUTHORIZED PERSONS~~
4 ~~DIRECTING TRAFFIC).~~

5 ~~SECTION 3111 (RELATING TO OBEDIENCE TO TRAFFIC CONTROL~~
6 ~~DEVICES).~~

7 ~~SECTION 3114 (RELATING TO FLASHING SIGNALS).~~

8 ~~SECTION 3302 (RELATING TO MEETING VEHICLE PROCEEDING IN~~
9 ~~OPPOSITE DIRECTION).~~

10 ~~SECTION 3303 (RELATING TO OVERTAKING VEHICLE ON THE~~
11 ~~LEFT).~~

12 ~~SECTION 3304 (RELATING TO OVERTAKING VEHICLE ON THE~~
13 ~~RIGHT).~~

14 ~~SECTION 3305 (RELATING TO LIMITATIONS ON OVERTAKING ON~~
15 ~~THE LEFT).~~

16 ~~SECTION 3306 (RELATING TO LIMITATIONS ON DRIVING ON LEFT~~
17 ~~SIDE OF ROADWAY).~~

18 ~~SECTION 3307 (RELATING TO NO PASSING ZONES).~~

19 ~~SECTION 3310 (RELATING TO FOLLOWING TOO CLOSELY).~~

20 ~~SECTION 3312 (RELATING TO LIMITED ACCESS HIGHWAY~~
21 ~~ENTRANCES AND EXITS).~~

22 ~~SECTION 3323 (RELATING TO STOP SIGNS AND YIELD SIGNS).~~

23 ~~SECTION 3325 (RELATING TO DUTY OF DRIVER ON APPROACH OF~~
24 ~~EMERGENCY VEHICLE).~~

25 ~~SECTION 3361 (RELATING TO DRIVING VEHICLE AT SAFE SPEED).~~

26 ~~SECTION 3707 (RELATING TO DRIVING OR STOPPING CLOSE TO~~
27 ~~FIRE APPARATUS).~~

28 ~~SECTION 3710 (RELATING TO STOPPING AT INTERSECTION OR~~
29 ~~CROSSING TO PREVENT OBSTRUCTION).~~

30 ~~SECTION 3714 (RELATING TO CARELESS DRIVING).~~

1 ~~SECTION 3715.1 (RELATING TO RESTRICTION ON ALCOHOLIC~~
2 ~~BEVERAGES).~~

3 ~~[SECTION 3731 (RELATING TO DRIVING UNDER INFLUENCE OF~~
4 ~~ALCOHOL OR CONTROLLED SUBSTANCE).]~~

5 ~~SECTION 3736 (RELATING TO RECKLESS DRIVING).~~

6 ~~SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF~~
7 ~~ALCOHOL OR CONTROLLED SUBSTANCE).~~

8 ~~* * *~~

9 ~~§ 3716. ACCIDENTS INVOLVING OVERTURNED VEHICLES.~~

10 ~~(A) SPEEDING, CARELESS DRIVING, ETC. IF A COMMERCIAL MOTOR~~
11 ~~VEHICLE OVERTURNS IN AN ACCIDENT RESULTING FROM A VIOLATION OF~~
12 ~~SECTION 3361 (RELATING TO DRIVING VEHICLE AT SAFE SPEED), 3362~~
13 ~~(RELATING TO MAXIMUM SPEED LIMITS), 3714 (RELATING TO CARELESS~~
14 ~~DRIVING) OR [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF~~
15 ~~ALCOHOL OR CONTROLLED SUBSTANCE), THE OPERATOR OF THE VEHICLE~~
16 ~~SHALL, UPON CONVICTION OF ANY OF THE AFOREMENTIONED OFFENSES, BE~~
17 ~~SENTENCED TO PAY A FINE OF \$2,000, IN ADDITION TO ANY OTHER~~
18 ~~PENALTY AUTHORIZED BY LAW.~~

19 ~~* * *~~

20 ~~SECTION 17. SECTION 3731 OF TITLE 75 IS REPEALED.~~

21 ~~SECTION 18. SECTIONS 3732(A), 3735(A), 3735.1(A) AND 3755(A)~~
22 ~~OF TITLE 75 ARE AMENDED TO READ:~~

23 ~~§ 3732. HOMICIDE BY VEHICLE.~~

24 ~~(A) OFFENSE. ANY PERSON WHO RECKLESSLY OR WITH GROSS~~
25 ~~NEGLIGENCE CAUSES THE DEATH OF ANOTHER PERSON WHILE ENGAGED IN~~
26 ~~THE VIOLATION OF ANY LAW OF THIS COMMONWEALTH OR MUNICIPAL~~
27 ~~ORDINANCE APPLYING TO THE OPERATION OR USE OF A VEHICLE OR TO~~
28 ~~THE REGULATION OF TRAFFIC EXCEPT SECTION [3731] 3802 (RELATING~~
29 ~~TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)~~
30 ~~IS GUILTY OF HOMICIDE BY VEHICLE, A FELONY OF THE THIRD DEGREE,~~

1 ~~WHEN THE VIOLATION IS THE CAUSE OF DEATH.~~

2 * * *

3 ~~§ 3735. HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE.~~

4 ~~(A) OFFENSE DEFINED. ANY PERSON WHO UNINTENTIONALLY CAUSES~~
5 ~~THE DEATH OF ANOTHER PERSON AS THE RESULT OF A VIOLATION OF~~
6 ~~SECTION [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF~~
7 ~~ALCOHOL OR CONTROLLED SUBSTANCE) AND WHO IS CONVICTED OF~~
8 ~~VIOLATING SECTION [3731] 3802 IS GUILTY OF A FELONY OF THE~~
9 ~~SECOND DEGREE WHEN THE VIOLATION IS THE CAUSE OF DEATH AND THE~~
10 ~~SENTENCING COURT SHALL ORDER THE PERSON TO SERVE A MINIMUM TERM~~
11 ~~OF IMPRISONMENT OF NOT LESS THAN THREE YEARS. A CONSECUTIVE~~
12 ~~THREE YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH VICTIM~~
13 ~~WHOSE DEATH IS THE RESULT OF THE VIOLATION OF SECTION [3731]~~
14 ~~3802.~~

15 * * *

16 ~~§ 3735.1. AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE~~
17 ~~INFLUENCE.~~

18 ~~(A) OFFENSE DEFINED. ANY PERSON WHO NEGLIGENTLY CAUSES~~
19 ~~SERIOUS BODILY INJURY TO ANOTHER PERSON AS THE RESULT OF A~~
20 ~~VIOLATION OF SECTION [3731] 3802 (RELATING TO DRIVING UNDER~~
21 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND WHO IS~~
22 ~~CONVICTED OF VIOLATING SECTION [3731] 3802 COMMITS A FELONY OF~~
23 ~~THE SECOND DEGREE WHEN THE VIOLATION IS THE CAUSE OF THE INJURY.~~

24 * * *

25 ~~§ 3755. REPORTS BY EMERGENCY ROOM PERSONNEL.~~

26 ~~(A) GENERAL RULE. IF, AS A RESULT OF A MOTOR VEHICLE~~
27 ~~ACCIDENT, THE PERSON WHO DROVE, OPERATED OR WAS IN ACTUAL~~
28 ~~PHYSICAL CONTROL OF THE MOVEMENT OF ANY INVOLVED MOTOR VEHICLE~~
29 ~~REQUIRES MEDICAL TREATMENT IN AN EMERGENCY ROOM OF A HOSPITAL~~
30 ~~AND IF PROBABLE CAUSE EXISTS TO BELIEVE A VIOLATION OF SECTION~~

1 ~~{3731} 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
2 ~~CONTROLLED SUBSTANCE) WAS INVOLVED, THE EMERGENCY ROOM PHYSICIAN~~
3 ~~OR HIS DESIGNEE SHALL PROMPTLY TAKE BLOOD SAMPLES FROM THOSE~~
4 ~~PERSONS AND TRANSMIT THEM WITHIN 24 HOURS FOR TESTING TO THE~~
5 ~~DEPARTMENT OF HEALTH OR A CLINICAL LABORATORY LICENSED AND~~
6 ~~APPROVED BY THE DEPARTMENT OF HEALTH AND SPECIFICALLY DESIGNATED~~
7 ~~FOR THIS PURPOSE. THIS SECTION SHALL BE APPLICABLE TO ALL~~
8 ~~INJURED OCCUPANTS WHO WERE CAPABLE OF MOTOR VEHICLE OPERATION IF~~
9 ~~THE OPERATOR OR PERSON IN ACTUAL PHYSICAL CONTROL OF THE~~
10 ~~MOVEMENT OF THE MOTOR VEHICLE CANNOT BE DETERMINED. TEST RESULTS~~
11 ~~SHALL BE RELEASED UPON REQUEST OF THE PERSON TESTED, HIS~~
12 ~~ATTORNEY, HIS PHYSICIAN OR GOVERNMENTAL OFFICIALS OR AGENCIES.~~

13 * * *

14 SECTION 19. TITLE 75 IS AMENDED BY ADDING A CHAPTER TO READ:

15 CHAPTER 38

16 DRIVING WHILE IMPAIRED

17 SEC.

18 3801. DEFINITIONS.

19 3802. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
20 SUBSTANCE.

21 3803. GRADING.

22 3804. PENALTIES.

23 3805. IGNITION INTERLOCK.

24 3806. PRIOR OFFENSES.

25 3807. ACCELERATED REHABILITATIVE DISPOSITION.

26 3808. ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
27 IGNITION INTERLOCK.

28 3809. RESTRICTION ON ALCOHOLIC BEVERAGES.

29 3810. AUTHORIZED USE NOT A DEFENSE.

30 3811. CERTAIN ARRESTS AUTHORIZED.

1 ~~3812. PRELIMINARY HEARING OR ARRAIGNMENT.~~

2 ~~3813. WORK RELEASE.~~

3 ~~3814. DRUG AND ALCOHOL ASSESSMENTS.~~

4 ~~3815. MANDATORY SENTENCING.~~

5 ~~3816. REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS.~~

6 ~~3817. REPORTING REQUIREMENTS FOR OFFENSES.~~

7 ~~§ 3801. DEFINITIONS.~~

8 ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER~~
9 ~~SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE~~
10 ~~CONTEXT CLEARLY INDICATES OTHERWISE:~~

11 ~~"ADULT." AN INDIVIDUAL WHO IS AT LEAST 21 YEARS OF AGE.~~

12 ~~"IGNITION INTERLOCK SYSTEM." A SYSTEM APPROVED BY THE~~
13 ~~DEPARTMENT WHICH PREVENTS A VEHICLE FROM BEING STARTED OR~~
14 ~~OPERATED UNLESS THE OPERATOR FIRST PROVIDES A BREATH SAMPLE~~
15 ~~INDICATING THAT THE OPERATOR HAS AN ALCOHOL LEVEL LESS THAN~~
16 ~~.025%.~~

17 ~~"MINOR." AN INDIVIDUAL WHO IS UNDER 21 YEARS OF AGE.~~

18 ~~§ 3802. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
19 ~~SUBSTANCE.~~

20 ~~(A) GENERAL IMPAIRMENT.—~~

21 ~~(1) AN INDIVIDUAL MAY NOT DRIVE, OPERATE OR BE IN ACTUAL~~
22 ~~PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE AFTER IMBIBING~~
23 ~~A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT THE INDIVIDUAL WAS~~
24 ~~INCAPABLE OF SAFELY DRIVING, OPERATING OR BEING IN ACTUAL~~
25 ~~PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.~~

26 ~~(2) AN INDIVIDUAL MAY NOT DRIVE, OPERATE OR BE IN ACTUAL~~
27 ~~PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE AFTER IMBIBING~~
28 ~~A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT THE ALCOHOL~~
29 ~~CONCENTRATION IN THE INDIVIDUAL'S BLOOD OR BREATH IS AT LEAST~~
30 ~~.08% BUT LESS THAN .10% WITHIN THREE HOURS AFTER THE~~

1 ~~INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL PHYSICAL~~
2 ~~CONTROL OF THE MOVEMENT OF THE VEHICLE.~~

3 ~~(B) HIGH RATE OF ALCOHOL. AN INDIVIDUAL MAY NOT DRIVE,~~
4 ~~OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A~~
5 ~~VEHICLE AFTER IMBIBING A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT~~
6 ~~THE ALCOHOL CONCENTRATION IN THE INDIVIDUAL'S BLOOD OR BREATH IS~~
7 ~~AT LEAST .10% BUT LESS THAN .16% WITHIN THREE HOURS AFTER THE~~
8 ~~INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL PHYSICAL~~
9 ~~CONTROL OF THE MOVEMENT OF THE VEHICLE.~~

10 ~~(C) HIGHEST RATE OF ALCOHOL. AN INDIVIDUAL MAY NOT DRIVE,~~
11 ~~OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A~~
12 ~~VEHICLE AFTER IMBIBING A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT~~
13 ~~THE ALCOHOL CONCENTRATION IN THE INDIVIDUAL'S BLOOD OR BREATH IS~~
14 ~~.16% OR HIGHER WITHIN THREE HOURS AFTER THE INDIVIDUAL HAS~~
15 ~~DRIVEN, OPERATED OR BEEN IN ACTUAL PHYSICAL CONTROL OF THE~~
16 ~~MOVEMENT OF THE VEHICLE.~~

17 ~~(D) CONTROLLED SUBSTANCES. AN INDIVIDUAL MAY NOT DRIVE,~~
18 ~~OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A~~
19 ~~VEHICLE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:~~

20 ~~(1) THERE IS IN THE INDIVIDUAL'S BLOOD ANY AMOUNT OF A:~~

21 ~~(I) SCHEDULE I CONTROLLED SUBSTANCE, AS DEFINED IN~~
22 ~~THE ACT OF APRIL 14, 1972 (P.L. 233, NO. 64), KNOWN AS THE~~
23 ~~CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT;~~

24 ~~(II) SCHEDULE II OR SCHEDULE III CONTROLLED~~
25 ~~SUBSTANCE, AS DEFINED IN THE CONTROLLED SUBSTANCE, DRUG,~~
26 ~~DEVICE AND COSMETIC ACT, WHICH HAS NOT BEEN MEDICALLY~~
27 ~~PRESCRIBED FOR THE INDIVIDUAL; OR~~

28 ~~(III) METABOLITE OF A SUBSTANCE UNDER SUBPARAGRAPH~~
29 ~~(I) OR (II).~~

30 ~~(2) THE INDIVIDUAL IS UNDER THE INFLUENCE OF A DRUG OR~~

1 ~~COMBINATION OF DRUGS TO A DEGREE WHICH IMPAIRS THE~~
2 ~~INDIVIDUAL'S ABILITY TO SAFELY DRIVE, OPERATE OR BE IN ACTUAL~~
3 ~~PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.~~

4 ~~(3) THE INDIVIDUAL IS UNDER THE COMBINED INFLUENCE OF~~
5 ~~ALCOHOL AND A DRUG OR COMBINATION OF DRUGS TO A DEGREE WHICH~~
6 ~~IMPAIRS THE INDIVIDUAL'S ABILITY TO SAFELY DRIVE, OPERATE OR~~
7 ~~BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.~~

8 ~~(4) THE INDIVIDUAL IS UNDER THE INFLUENCE OF A SOLVENT~~
9 ~~OR NOXIOUS SUBSTANCE IN VIOLATION OF 18 PA.C.S. § 7303~~
10 ~~(RELATING TO SALE OR ILLEGAL USE OF CERTAIN SOLVENTS AND~~
11 ~~NOXIOUS SUBSTANCES).~~

12 ~~(E) MINORS. A MINOR MAY NOT DRIVE, OPERATE OR BE IN ACTUAL~~
13 ~~PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE AFTER IMBIBING A~~
14 ~~SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT THE ALCOHOL CONCENTRATION~~
15 ~~IN THE MINOR'S BLOOD OR BREATH IS .02% OR HIGHER WITHIN THREE~~
16 ~~HOURS AFTER THE MINOR HAS DRIVEN, OPERATED OR BEEN IN ACTUAL~~
17 ~~PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.~~

18 ~~(F) COMMERCIAL SCHOOL VEHICLES. AN INDIVIDUAL MAY NOT~~
19 ~~DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT~~
20 ~~OF A COMMERCIAL VEHICLE OR SCHOOL VEHICLE IN ANY OF THE~~
21 ~~FOLLOWING CIRCUMSTANCES:~~

22 ~~(1) AFTER THE INDIVIDUAL HAS IMBIBED A SUFFICIENT AMOUNT~~
23 ~~OF ALCOHOL SUCH THAT THE ALCOHOL CONCENTRATION IN THE~~
24 ~~INDIVIDUAL'S BLOOD OR BREATH IS:~~

25 ~~(I) .04% OR GREATER WITHIN THREE HOURS AFTER THE~~
26 ~~INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL~~
27 ~~PHYSICAL CONTROL OF THE MOVEMENT OF A COMMERCIAL VEHICLE~~
28 ~~OTHER THAN A SCHOOL BUS OR A SCHOOL VEHICLE.~~

29 ~~(II) .02% OR GREATER WITHIN THREE HOURS AFTER THE~~
30 ~~INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL~~

1 ~~PHYSICAL CONTROL OF THE MOVEMENT OF A SCHOOL BUS OR A~~
2 ~~SCHOOL VEHICLE.~~

3 ~~(2) AFTER THE INDIVIDUAL HAS IMBIBED A SUFFICIENT AMOUNT~~
4 ~~OF ALCOHOL SUCH THAT THE INDIVIDUAL WAS INCAPABLE OF SAFELY~~
5 ~~DRIVING, OPERATING OR BEING IN ACTUAL PHYSICAL CONTROL OF THE~~
6 ~~MOVEMENT OF A COMMERCIAL VEHICLE.~~

7 ~~(3) WHILE THE INDIVIDUAL IS UNDER THE INFLUENCE OF A~~
8 ~~CONTROLLED SUBSTANCE OR COMBINATION OF CONTROLLED SUBSTANCES,~~
9 ~~AS DEFINED IN SECTION 1603 (RELATING TO DEFINITIONS).~~

10 ~~(4) WHILE THE INDIVIDUAL IS UNDER THE COMBINED INFLUENCE~~
11 ~~OF ALCOHOL AND A CONTROLLED SUBSTANCE OR COMBINATION OF~~
12 ~~CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 1603.~~

13 ~~(G) EXCEPTION TO THREE HOUR RULE. NOTWITHSTANDING THE~~
14 ~~PROVISIONS OF SUBSECTION (A), (B), (C), (E) OR (F), WHERE~~
15 ~~ALCOHOL CONCENTRATION IN AN INDIVIDUAL'S BLOOD OR BREATH IS AN~~
16 ~~ELEMENT OF THE OFFENSE, EVIDENCE OF SUCH ALCOHOL CONCENTRATION~~
17 ~~MORE THAN THREE HOURS AFTER THE INDIVIDUAL HAS DRIVEN, OPERATED~~
18 ~~OR BEEN IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF THE~~
19 ~~VEHICLE IS SUFFICIENT TO ESTABLISH THAT ELEMENT OF THE OFFENSE~~
20 ~~UNDER THE FOLLOWING CIRCUMSTANCES:~~

21 ~~(1) WHERE THE COMMONWEALTH SHOWS GOOD CAUSE EXPLAINING~~
22 ~~WHY THE CHEMICAL TEST COULD NOT BE PERFORMED WITHIN THREE~~
23 ~~HOURS; AND~~

24 ~~(2) WHERE THE COMMONWEALTH ESTABLISHES THAT THE~~
25 ~~INDIVIDUAL DID NOT IMBIBE ANY ALCOHOL BETWEEN THE TIME THE~~
26 ~~INDIVIDUAL WAS ARRESTED AND THE TIME THE TEST WAS PERFORMED.~~

27 ~~§ 3803. GRADING.~~

28 ~~(A) BASIC OFFENSES. —~~

29 ~~(1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (RELATING~~
30 ~~TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~

1 ~~SUBSTANCE) AND HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A~~
2 ~~MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A~~
3 ~~TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A~~
4 ~~FINE UNDER SECTION 3804 (RELATING TO PENALTIES).~~

5 ~~(2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) AND HAS~~
6 ~~MORE THAN ONE PRIOR OFFENSE COMMITS A MISDEMEANOR OF THE~~
7 ~~SECOND DEGREE.~~

8 ~~(B) OTHER OFFENSES.~~

9 ~~(1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(B), (E) OR~~
10 ~~(F) AND WHO HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A~~
11 ~~MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A~~
12 ~~TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A~~
13 ~~FINE UNDER SECTION 3804.~~

14 ~~(2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(C) OR (D)~~
15 ~~AND WHO HAS NO PRIOR OFFENSES COMMITS A MISDEMEANOR FOR WHICH~~
16 ~~THE INDIVIDUAL MAY BE SENTENCED TO A TERM OF IMPRISONMENT OF~~
17 ~~NOT MORE THAN SIX MONTHS AND TO PAY A FINE UNDER SECTION~~
18 ~~3804.~~

19 ~~(3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(B), (E) OR~~
20 ~~(F) AND WHO HAS MORE THAN ONE PRIOR OFFENSE COMMITS A~~
21 ~~MISDEMEANOR OF THE FIRST DEGREE.~~

22 ~~(4) AN INDIVIDUAL WHO VIOLATES SECTION 3802(C) OR (D)~~
23 ~~AND WHO HAS ONE OR MORE PRIOR OFFENSES COMMITS A MISDEMEANOR~~
24 ~~OF THE FIRST DEGREE.~~

25 ~~§ 3804. PENALTIES.~~

26 ~~(A) GENERAL IMPAIRMENT. AN INDIVIDUAL WHO VIOLATES SECTION~~
27 ~~3802(A) (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
28 ~~CONTROLLED SUBSTANCE) SHALL BE SENTENCED AS FOLLOWS:~~

29 ~~(1) FOR A FIRST OFFENSE, TO:~~

30 ~~(I) UNDERGO A PERIOD OF PROBATION NOT TO EXCEED SIX~~

1 MONTHS;

2 ~~(II) PAY A FINE OF \$300;~~

3 ~~(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL~~

4 ~~APPROVED BY THE DEPARTMENT; AND~~

5 ~~(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

6 ~~REQUIREMENTS IMPOSED UNDER SECTION 3814 (RELATING TO DRUG~~

7 ~~AND ALCOHOL ASSESSMENTS) AND SECTION 3815 (RELATING TO~~

8 ~~MANDATORY SENTENCING).~~

9 ~~(2) FOR A SECOND OFFENSE, TO:~~

10 ~~(I) UNDERGO IMPRISONMENT FOR NOT LESS THAN FIVE DAYS~~

11 ~~NOR MORE THAN SIX MONTHS;~~

12 ~~(II) PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN~~

13 ~~\$2,500;~~

14 ~~(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL~~

15 ~~APPROVED BY THE DEPARTMENT; AND~~

16 ~~(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

17 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

18 ~~(3) FOR A THIRD OR SUBSEQUENT OFFENSE, TO:~~

19 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN TEN DAYS~~

20 ~~NOR MORE THAN TWO YEARS;~~

21 ~~(II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN~~

22 ~~\$5,000; AND~~

23 ~~(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

24 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

25 ~~(B) HIGH RATE OF BLOOD ALCOHOL; MINORS; COMMERCIAL VEHICLES~~

26 ~~AND SCHOOL BUSES AND SCHOOL VEHICLES; ACCIDENTS. EXCEPT AS SET~~

27 ~~FORTH IN SUBSECTION (C), AN INDIVIDUAL WHO VIOLATES SECTION~~

28 ~~3802(A)(1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY~~

29 ~~INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR IN~~

30 ~~DAMAGE TO A VEHICLE OR OTHER PROPERTY OR WHO VIOLATES SECTION~~

1 ~~3802(B), (E) OR (F) SHALL BE SENTENCED AS FOLLOWS:~~

2 ~~(1) FOR A FIRST OFFENSE, TO:~~

3 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN 72~~

4 ~~CONSECUTIVE HOURS NOR MORE THAN SIX MONTHS;~~

5 ~~(II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN~~
6 ~~\$5,000;~~

7 ~~(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL~~
8 ~~APPROVED BY THE DEPARTMENT; AND~~

9 ~~(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~
10 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

11 ~~(2) FOR A SECOND OFFENSE, TO:~~

12 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN 30 DAYS~~
13 ~~NOR MORE THAN SIX MONTHS;~~

14 ~~(II) PAY A FINE OF NOT LESS THAN \$750 NOR MORE THAN~~
15 ~~\$5,000;~~

16 ~~(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL~~
17 ~~APPROVED BY THE DEPARTMENT; AND~~

18 ~~(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~
19 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

20 ~~(3) FOR A THIRD OFFENSE, TO:~~

21 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN 120 DAYS~~
22 ~~NOR MORE THAN FIVE YEARS;~~

23 ~~(II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE~~
24 ~~THAN \$10,000; AND~~

25 ~~(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~
26 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

27 ~~(4) FOR A FOURTH OR SUBSEQUENT OFFENSE, TO:~~

28 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR~~
29 ~~NOR MORE THAN FIVE YEARS;~~

30 ~~(II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE~~

1 ~~THAN \$10,000; AND~~

2 ~~(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

3 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

4 ~~(C) INCAPACITY; HIGHEST BLOOD ALCOHOL; CONTROLLED~~

5 ~~SUBSTANCES. AN INDIVIDUAL CONVICTED OF VIOLATING SECTION~~

6 ~~3802(A)(1) AFTER HAVING REFUSED TESTING OF BLOOD OR BREATH OR OF~~

7 ~~VIOLATING SECTION 3802(C) OR (D) SHALL BE SENTENCED AS FOLLOWS:~~

8 ~~(1) FOR A FIRST OFFENSE, TO:~~

9 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN SEVEN~~

10 ~~CONSECUTIVE DAYS NOR MORE THAN SIX MONTHS;~~

11 ~~(II) PAY A FINE OF NOT LESS THAN \$1,000 NOR MORE~~

12 ~~THAN \$5,000;~~

13 ~~(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL~~

14 ~~APPROVED BY THE DEPARTMENT; AND~~

15 ~~(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

16 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

17 ~~(2) FOR A SECOND OFFENSE, TO:~~

18 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN 90 DAYS~~

19 ~~NOR MORE THAN FIVE YEARS;~~

20 ~~(II) PAY A FINE OF NOT LESS THAN \$1,500;~~

21 ~~(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL~~

22 ~~APPROVED BY THE DEPARTMENT; AND~~

23 ~~(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

24 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

25 ~~(3) FOR A THIRD OR SUBSEQUENT OFFENSE, TO:~~

26 ~~(I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR~~

27 ~~NOR MORE THAN FIVE YEARS;~~

28 ~~(II) PAY A FINE OF NOT LESS THAN \$2,500; AND~~

29 ~~(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT~~

30 ~~REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.~~

1 ~~(D) EXTENDED SUPERVISION OF COURT. WHERE A PERSON IS~~
2 ~~SENTENCED PURSUANT TO THIS CHAPTER AND FOLLOWING THE INITIAL~~
3 ~~ASSESSMENT REQUIRED BY SECTION 3814(1), THE PERSON IS DETERMINED~~
4 ~~TO BE IN NEED OF ADDITIONAL TREATMENT PURSUANT TO SECTION~~
5 ~~3814(2), THE JUDGE SHALL IMPOSE A MINIMUM SENTENCE AS PROVIDED~~
6 ~~BY LAW AND A MAXIMUM SENTENCE EQUAL TO THE STATUTORILY AVAILABLE~~
7 ~~MAXIMUM.~~

8 ~~(E) SUSPENSION OF OPERATING PRIVILEGES UPON CONVICTION.~~

9 ~~(1) THE DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE~~
10 ~~OF AN INDIVIDUAL UNDER PARAGRAPH (2) UPON RECEIVING A~~
11 ~~CERTIFIED RECORD OF THE INDIVIDUAL'S CONVICTION OF OR AN~~
12 ~~ADJUDICATION OF DELINQUENCY FOR:~~

13 ~~(I) AN OFFENSE UNDER SECTION 3802; OR~~

14 ~~(II) A SUBSTANTIALLY SIMILAR OFFENSE REPORTED TO THE~~
15 ~~DEPARTMENT UNDER ARTICLE III OF THE COMPACT IN SECTION~~
16 ~~1581 (RELATING TO DRIVER'S LICENSE COMPACT).~~

17 ~~(2) SUSPENSION UNDER PARAGRAPH (1)(I) SHALL BE IN~~
18 ~~ACCORDANCE WITH THE FOLLOWING:~~

19 ~~(I) EXCEPT AS PROVIDED FOR IN SUBPARAGRAPH (III), 12~~
20 ~~MONTHS FOR AN UNGRADED MISDEMEANOR OR MISDEMEANOR OF THE~~
21 ~~SECOND DEGREE UNDER THIS CHAPTER.~~

22 ~~(II) 24 MONTHS FOR A MISDEMEANOR OF THE FIRST DEGREE~~
23 ~~UNDER THIS CHAPTER.~~

24 ~~(III) THERE SHALL BE NO SUSPENSION FOR AN UNGRADED~~
25 ~~MISDEMEANOR UNDER SECTION 3802(A) WHERE THE PERSON HAS NO~~
26 ~~PRIOR OFFENSE.~~

27 ~~(3) SUSPENSION IMPOSED UNDER PARAGRAPH (1)(II) SHALL BE~~
28 ~~IN ACCORDANCE WITH THE FOLLOWING:~~

29 ~~(I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (II), THE~~
30 ~~PERIOD SHALL BE SIX MONTHS.~~

1 ~~(II) IF THE INDIVIDUAL HAS A PRIOR OFFENSE AS~~
2 ~~DEFINED BY SECTION 3806(A) (RELATING TO PRIOR OFFENSES),~~
3 ~~THE PERIOD SHALL BE ONE YEAR.~~

4 ~~(III) NOTWITHSTANDING ANY PROVISION OF LAW OR~~
5 ~~ENFORCEMENT AGREEMENT TO THE CONTRARY, A SUSPENSION~~
6 ~~IMPOSED PURSUANT TO PARAGRAPH (1)(II) SHALL DATE FROM AND~~
7 ~~RUN CONCURRENTLY TO ANY SUSPENSION IMPOSED BY THE~~
8 ~~REPORTING PARTY STATE.~~

9 ~~(F) COMMUNITY SERVICE ASSIGNMENTS. IN ADDITION TO THE~~
10 ~~PENALTIES SET FORTH IN THIS SECTION, THE SENTENCING JUDGE MAY~~
11 ~~IMPOSE UP TO 150 HOURS OF COMMUNITY SERVICE. WHERE THE~~
12 ~~INDIVIDUAL HAS BEEN ORDERED TO DRUG AND ALCOHOL TREATMENT~~
13 ~~PURSUANT TO SECTIONS 3814 AND 3815, THE COMMUNITY SERVICE SHALL~~
14 ~~BE CERTIFIED BY THE DRUG AND ALCOHOL TREATMENT PROGRAM AS~~
15 ~~CONSISTENT WITH ANY DRUG AND ALCOHOL TREATMENT REQUIREMENTS~~
16 ~~IMPOSED UNDER SECTIONS 3814 AND 3815.~~

17 ~~(G) COURT ORDERED IGNITION INTERLOCK. IF THE PERSON HAS A~~
18 ~~PRIOR OFFENSE AS DEFINED IN SECTION 3806(A), THE COURT SHALL~~
19 ~~ORDER THE DEPARTMENT TO REQUIRE AN IGNITION INTERLOCK SYSTEM~~
20 ~~UNDER SECTION 3805 (RELATING TO IGNITION INTERLOCK).~~

21 ~~(H) SENTENCING GUIDELINES. THE SENTENCING GUIDELINES~~
22 ~~PROMULGATED BY THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL~~
23 ~~NOT SUPERSEDE THE MANDATORY PENALTIES OF THIS SECTION.~~

24 ~~(I) APPEAL. THE COMMONWEALTH HAS THE RIGHT TO APPEAL~~
25 ~~DIRECTLY TO THE SUPERIOR COURT ANY ORDER OF COURT WHICH IMPOSES~~
26 ~~A SENTENCE FOR VIOLATION OF THIS SECTION WHICH DOES NOT MEET THE~~
27 ~~REQUIREMENTS OF THIS SECTION. THE SUPERIOR COURT SHALL REMAND~~
28 ~~THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A SENTENCE IN~~
29 ~~ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.~~

30 ~~(J) FIRST CLASS CITIES. NOTWITHSTANDING THE PROVISION FOR~~

1 ~~DIRECT APPEAL TO THE SUPERIOR COURT, IF, IN A CITY OF THE FIRST~~
2 ~~CLASS, A PERSON APPEALS FROM A JUDGMENT OF SENTENCE UNDER THIS~~
3 ~~SECTION FROM THE MUNICIPAL COURT TO THE COMMON PLEAS COURT FOR A~~
4 ~~TRIAL DE NOVO, THE COMMONWEALTH SHALL HAVE THE RIGHT TO APPEAL~~
5 ~~DIRECTLY TO THE SUPERIOR COURT FROM THE ORDER OF THE COMMON~~
6 ~~PLEAS COURT IF THE SENTENCE IMPOSED IS IN VIOLATION OF THIS~~
7 ~~SECTION. IF, IN A CITY OF THE FIRST CLASS, A PERSON APPEALS TO~~
8 ~~THE COURT OF COMMON PLEAS AFTER CONVICTION OF A VIOLATION OF~~
9 ~~THIS SECTION IN THE MUNICIPAL COURT AND THEREAFTER WITHDRAWS HIS~~
10 ~~APPEAL TO THE COMMON PLEAS COURT, THEREBY REINSTATING THE~~
11 ~~JUDGMENT OF SENTENCE OF THE MUNICIPAL COURT, THE COMMONWEALTH~~
12 ~~SHALL HAVE 30 DAYS FROM THE DATE OF THE WITHDRAWAL TO APPEAL TO~~
13 ~~THE SUPERIOR COURT IF THE SENTENCE IS IN VIOLATION OF THIS~~
14 ~~SECTION.~~

15 ~~§ 3805. IGNITION INTERLOCK.~~

16 ~~(A) GENERAL RULE. WHERE A PERSON VIOLATES SECTION 3802~~
17 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
18 ~~SUBSTANCE) AND HAS A PRIOR OFFENSE AS DEFINED IN SECTION 3806(A)~~
19 ~~(RELATING TO PRIOR OFFENSES) AND THE PERSON SEEKS A RESTORATION~~
20 ~~OF OPERATING PRIVILEGES, THE DEPARTMENT SHALL REQUIRE AS A~~
21 ~~CONDITION OF ISSUING A RESTRICTED LICENSE PURSUANT TO THIS~~
22 ~~SECTION THAT ANY OF THE FOLLOWING OCCUR:~~

23 ~~(1) EACH MOTOR VEHICLE OWNED BY THE PERSON OR REGISTERED~~
24 ~~TO THE PERSON HAS BEEN EQUIPPED WITH AN APPROVED IGNITION~~
25 ~~INTERLOCK SYSTEM AND REMAINS SO FOR THE DURATION OF THE~~
26 ~~RESTRICTED LICENSE PERIOD.~~

27 ~~(2) IF THERE ARE NO VEHICLES OWNED BY THE PERSON OR~~
28 ~~REGISTERED TO THE PERSON THAT THE PERSON SO CERTIFY TO THE~~
29 ~~DEPARTMENT. A PERSON SO CERTIFYING SHALL BE DEEMED TO HAVE~~
30 ~~SATISFIED THE REQUIREMENT THAT ALL VEHICLES OWNED BY THE~~

1 ~~PERSON OR REGISTERED TO THE PERSON BE EQUIPPED WITH AN~~
2 ~~IGNITION INTERLOCK SYSTEM AS REQUIRED BY THIS SUBSECTION.~~

3 ~~(B) APPLICATION FOR A RESTRICTED LICENSE. A PERSON SUBJECT~~
4 ~~TO THIS SECTION SHALL APPLY TO THE DEPARTMENT FOR AN IGNITION~~
5 ~~INTERLOCK RESTRICTED LICENSE UNDER SECTION 1951 (RELATING TO~~
6 ~~DRIVER'S LICENSE AND LEARNER'S PERMIT), WHICH SHALL BE CLEARLY~~
7 ~~MARKED TO RESTRICT THE PERSON TO OPERATING ONLY MOTOR VEHICLES~~
8 ~~EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM. UPON~~
9 ~~ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE TO ANY~~
10 ~~PERSON, THE DEPARTMENT SHALL NOTIFY THE PERSON THAT UNTIL THE~~
11 ~~PERSON OBTAINS AN UNRESTRICTED LICENSE THE PERSON MAY NOT OWN,~~
12 ~~REGISTER OR OPERATE ANY VEHICLE WHICH IS NOT EQUIPPED WITH AN~~
13 ~~APPROVED IGNITION INTERLOCK SYSTEM.~~

14 ~~(C) ISSUANCE OF UNRESTRICTED LICENSE. ONE YEAR FROM THE~~
15 ~~DATE OF ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE~~
16 ~~UNDER THIS SECTION, IF OTHERWISE ELIGIBLE, A PERSON MAY APPLY~~
17 ~~FOR A REPLACEMENT LICENSE UNDER SECTION 1951(D) THAT DOES NOT~~
18 ~~CONTAIN THE IGNITION INTERLOCK SYSTEM RESTRICTION.~~

19 ~~(D) PROHIBITION. UNTIL THE PERSON OBTAINS AN UNRESTRICTED~~
20 ~~LICENSE, THE PERSON MAY NOT OWN, REGISTER OR OPERATE ANY MOTOR~~
21 ~~VEHICLE ON A HIGHWAY WITHIN THIS COMMONWEALTH UNLESS THE MOTOR~~
22 ~~VEHICLE IS EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM.~~

23 ~~(E) ECONOMIC HARDSHIP EXEMPTION. A PERSON SUBJECT TO THE~~
24 ~~REQUIREMENTS OF SUBSECTION (A) MAY APPLY TO THE DEPARTMENT FOR A~~
25 ~~HARDSHIP EXEMPTION TO THE REQUIREMENT THAT AN IGNITION INTERLOCK~~
26 ~~SYSTEM MUST BE INSTALLED IN EACH OF THE PERSON'S MOTOR VEHICLES.~~
27 ~~WHERE THE DEPARTMENT DETERMINES THAT THE APPLICANT ESTABLISHES~~
28 ~~THAT SUCH A REQUIREMENT WOULD RESULT IN UNDUE FINANCIAL~~
29 ~~HARDSHIP, THE DEPARTMENT MAY PERMIT THE APPLICANT TO INSTALL AN~~
30 ~~IGNITION INTERLOCK SYSTEM ON ONLY ONE OF THE APPLICANT'S~~

1 ~~VEHICLES. HOWEVER, THE APPLICANT IN ACCORDANCE WITH SECTION 3808~~
2 ~~(RELATING TO ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED~~
3 ~~WITH IGNITION INTERLOCK) SHALL BE PROHIBITED FROM DRIVING ANY~~
4 ~~VEHICLE, INCLUDING ANY OF THE APPLICANT'S VEHICLES, WITHOUT AN~~
5 ~~IGNITION INTERLOCK SYSTEM.~~

6 ~~(F) EMPLOYMENT EXEMPTION. IF A PERSON WITH A RESTRICTED~~
7 ~~LICENSE IS REQUIRED IN THE COURSE AND SCOPE OF EMPLOYMENT TO~~
8 ~~OPERATE A MOTOR VEHICLE OWNED BY THE PERSON'S EMPLOYER, THE~~
9 ~~FOLLOWING APPLY:~~

10 ~~(1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PERSON MAY~~
11 ~~OPERATE THAT MOTOR VEHICLE IN THE COURSE AND SCOPE OF~~
12 ~~EMPLOYMENT WITHOUT INSTALLATION OF AN IGNITION INTERLOCK~~
13 ~~SYSTEM IF:~~

14 ~~(I) THE EMPLOYER HAS BEEN NOTIFIED THAT THE EMPLOYEE~~
15 ~~IS RESTRICTED; AND~~

16 ~~(II) THE EMPLOYEE HAS PROOF OF THE NOTIFICATION IN~~
17 ~~THE EMPLOYEE'S POSSESSION WHILE OPERATING THE EMPLOYER'S~~
18 ~~MOTOR VEHICLE.~~

19 ~~(2) PARAGRAPH (1) DOES NOT APPLY IN ANY OF THE FOLLOWING~~
20 ~~CIRCUMSTANCES:~~

21 ~~(I) TO THE EXTENT THAT AN EMPLOYER OWNED MOTOR~~
22 ~~VEHICLE IS MADE AVAILABLE TO THE EMPLOYEE FOR PERSONAL~~
23 ~~USE.~~

24 ~~(II) IF THE EMPLOYER OWNED MOTOR VEHICLE IS OWNED BY~~
25 ~~AN ENTITY WHICH IS WHOLLY OR PARTIALLY OWNED BY THE~~
26 ~~PERSON SUBJECT TO THIS SECTION.~~

27 ~~§ 3806. PRIOR OFFENSES.~~

28 ~~(A) GENERAL RULE. EXCEPT AS SET FORTH IN SUBSECTION (B),~~
29 ~~THE TERM "PRIOR OFFENSE" AS USED IN THIS CHAPTER SHALL MEAN A~~
30 ~~CONVICTION, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT~~

1 ~~DECREE, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR~~
2 ~~OTHER FORM OF PRELIMINARY DISPOSITION BEFORE THE SENTENCING ON~~
3 ~~THE PRESENT VIOLATION FOR ANY OF THE FOLLOWING:~~

4 ~~(1) AN OFFENSE UNDER FORMER SECTION 3731 (RELATING TO~~
5 ~~DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);~~

6 ~~(2) AN OFFENSE UNDER SECTION 3802 (RELATING TO DRIVING~~
7 ~~UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);~~

8 ~~(3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER~~
9 ~~PARAGRAPHS (1) OR (2) IN ANOTHER JURISDICTION; OR~~

10 ~~(4) ANY COMBINATION OF THE OFFENSES SET FORTH IN~~
11 ~~PARAGRAPHS (1), (2) OR (3).~~

12 ~~(B) EXCEPTIONS. FOR PURPOSES OF SECTION 3804 (RELATING TO~~
13 ~~PENALTIES), THE CALCULATION OF PRIOR AND SUBSEQUENT OFFENSES~~
14 ~~SHALL INCLUDE ANY CONVICTION, ADJUDICATION OF DELINQUENCY,~~
15 ~~JUVENILE CONSENT DECREE, ACCEPTANCE OF ACCELERATED~~
16 ~~REHABILITATIVE DISPOSITION OR OTHER FORM OF PRELIMINARY~~
17 ~~DISPOSITION WITHIN THE TEN YEARS BEFORE THE PRESENT VIOLATION~~
18 ~~OCCURRED FOR ANY OF THE FOLLOWING:~~

19 ~~(1) AN OFFENSE UNDER FORMER SECTION 3731;~~

20 ~~(2) AN OFFENSE UNDER SECTION 3802;~~

21 ~~(3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER~~
22 ~~PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR~~

23 ~~(4) ANY COMBINATION OF THE OFFENSES SET FORTH IN~~
24 ~~PARAGRAPH (1), (2) OR (3).~~

25 ~~§ 3807. ACCELERATED REHABILITATIVE DISPOSITION.~~

26 ~~(A) ELIGIBILITY.—~~

27 ~~(1) EXCEPT AS SET FORTH IN PARAGRAPH (2), A DEFENDANT~~
28 ~~CHARGED WITH A VIOLATION OF SECTION 3802 (RELATING TO DRIVING~~
29 ~~UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) MAY BE~~
30 ~~CONSIDERED BY THE ATTORNEY FOR THE COMMONWEALTH FOR~~

1 ~~PARTICIPATION IN AN ACCELERATED REHABILITATIVE DISPOSITION~~
2 ~~PROGRAM IN A COUNTY IF THE PROGRAM INCLUDES THE MINIMUM~~
3 ~~REQUIREMENTS CONTAINED IN THIS SECTION.~~

4 ~~(2) THE ATTORNEY FOR THE COMMONWEALTH SHALL NOT SUBMIT A~~
5 ~~CHARGE BROUGHT UNDER THIS CHAPTER FOR ACCELERATED~~
6 ~~REHABILITATIVE DISPOSITION IF ANY OF THE FOLLOWING APPLY:~~

7 ~~(I) THE DEFENDANT HAS BEEN FOUND GUILTY OF OR~~
8 ~~ACCEPTED ACCELERATED REHABILITATIVE DISPOSITION OF A~~
9 ~~CHARGE BROUGHT UNDER SECTION 3802 WITHIN TEN YEARS OF THE~~
10 ~~DATE OF THE CURRENT OFFENSE UNLESS THE CHARGE WAS FOR AN~~
11 ~~UNGRADED MISDEMEANOR UNDER SECTION 3802(A)(2) AND WAS THE~~
12 ~~DEFENDANT'S FIRST OFFENSE UNDER SECTION 3802.~~

13 ~~(II) AN ACCIDENT OCCURRED IN CONNECTION WITH THE~~
14 ~~EVENTS SURROUNDING THE CURRENT OFFENSE AND AN INDIVIDUAL~~
15 ~~OTHER THAN THE DEFENDANT WAS KILLED OR SUFFERED SERIOUS~~
16 ~~BODILY INJURY AS A RESULT OF THE ACCIDENT.~~

17 ~~(III) THERE WAS A PASSENGER UNDER 14 YEARS OF AGE IN~~
18 ~~THE VEHICLE THE DEFENDANT WAS OPERATING.~~

19 ~~(B) EVALUATION AND TREATMENT.~~

20 ~~(1) A DEFENDANT OFFERED ACCELERATED REHABILITATIVE~~
21 ~~DISPOSITION FOR A VIOLATION OF SECTION 3802 IS, AS A~~
22 ~~CONDITION OF PARTICIPATION IN THE PROGRAM, SUBJECT TO THE~~
23 ~~FOLLOWING REQUIREMENTS IN ADDITION TO ANY OTHER CONDITIONS OF~~
24 ~~PARTICIPATION IMPOSED BY THE COURT:~~

25 ~~(I) THE DEFENDANT MUST ATTEND AND SUCCESSFULLY~~
26 ~~COMPLETE AN ALCOHOL HIGHWAY SAFETY SCHOOL ESTABLISHED~~
27 ~~UNDER SECTION 1549 (RELATING TO ESTABLISHMENT OF~~
28 ~~SCHOOLS). A PARTICIPATING DEFENDANT SHALL BE GIVEN BOTH~~
29 ~~ORAL AND WRITTEN NOTICE OF THE PROVISIONS OF SECTION~~
30 ~~1543(B) (RELATING TO DRIVING WHILE OPERATING PRIVILEGE IS~~

1 ~~SUSPENDED OR REVOKED).~~

2 ~~(II) PRIOR TO RECEIVING ACCELERATED REHABILITATIVE~~
3 ~~DISPOSITION OR OTHER PRELIMINARY DISPOSITION, THE~~
4 ~~DEFENDANT MUST BE EVALUATED UNDER SECTION 3816(A)~~
5 ~~(RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE~~
6 ~~OFFENDERS) TO DETERMINE THE EXTENT OF THE DEFENDANT'S~~
7 ~~INVOLVEMENT WITH ALCOHOL OR OTHER DRUG AND TO ASSIST THE~~
8 ~~COURT IN DETERMINING WHAT CONDITIONS OF ACCELERATED~~
9 ~~REHABILITATIVE DISPOSITION WOULD BENEFIT THE DEFENDANT~~
10 ~~AND THE PUBLIC. IF THE EVALUATION INDICATES THERE IS A~~
11 ~~NEED FOR COUNSELING OR TREATMENT, THE DEFENDANT SHALL BE~~
12 ~~SUBJECT TO A FULL ASSESSMENT FOR ALCOHOL AND DRUG~~
13 ~~ADDICTION IN ACCORDANCE WITH THE PROVISIONS OF SECTION~~
14 ~~3814(3) AND (4) (RELATING TO DRUG AND ALCOHOL~~
15 ~~ASSESSMENTS).~~

16 ~~(III) IF THE DEFENDANT IS ASSESSED UNDER~~
17 ~~SUBPARAGRAPH (II) TO BE IN NEED OF TREATMENT, THE~~
18 ~~DEFENDANT MUST PARTICIPATE AND COOPERATE WITH A LICENSED~~
19 ~~ALCOHOL OR DRUG ADDICTION TREATMENT PROGRAM. THE LEVEL~~
20 ~~AND DURATION OF TREATMENT SHALL BE IN ACCORDANCE WITH THE~~
21 ~~RECOMMENDATIONS WITH THE FULL ASSESSMENT. NOTHING IN THIS~~
22 ~~SUBPARAGRAPH SHALL PREVENT A TREATMENT PROGRAM FROM~~
23 ~~REFUSING TO ACCEPT A DEFENDANT IF THE PROGRAM~~
24 ~~ADMINISTRATOR DEEMS THE DEFENDANT TO BE INAPPROPRIATE FOR~~
25 ~~ADMISSION TO THE PROGRAM. A TREATMENT PROGRAM SHALL~~
26 ~~RETAIN THE RIGHT TO IMMEDIATELY DISCHARGE INTO THE~~
27 ~~CUSTODY OF THE PROBATION OFFICER AN OFFENDER WHO FAILS TO~~
28 ~~COMPLY WITH PROGRAM RULES AND TREATMENT EXPECTATIONS OR~~
29 ~~REFUSES TO CONSTRUCTIVELY ENGAGE IN THE TREATMENT~~
30 ~~PROCESS.~~

1 ~~(IV) THE DEFENDANT MUST REMAIN SUBJECT TO COURT~~
2 ~~SUPERVISION FOR SIX MONTHS.~~

3 ~~(V) THE DEFENDANT MUST MAKE RESTITUTION TO ANY~~
4 ~~PERSON THAT INCURRED DETERMINABLE FINANCIAL LOSS AS A~~
5 ~~RESULT OF THE DEFENDANT'S ACTIONS WHICH RESULTED IN THE~~
6 ~~OFFENSE. RESTITUTION MUST BE SUBJECT TO COURT~~
7 ~~SUPERVISION.~~

8 ~~(VI) THE DEFENDANT MUST PAY THE REASONABLE COSTS OF~~
9 ~~A MUNICIPAL CORPORATION IN CONNECTION WITH THE OFFENSE.~~
10 ~~FEEES IMPOSED UNDER THIS SUBPARAGRAPH SHALL BE DISTRIBUTED~~
11 ~~TO THE AFFECTED MUNICIPAL CORPORATION.~~

12 ~~(VII) THE DEFENDANT MUST PAY ANY OTHER FEE,~~
13 ~~SURCHARGE OR COST REQUIRED BY LAW. EXCEPT AS SET FORTH IN~~
14 ~~SUBPARAGRAPH (VI) OR (VIII), A FEE OR FINANCIAL CONDITION~~
15 ~~IMPOSED BY A JUDGE AS A CONDITION OF ACCELERATED~~
16 ~~REHABILITATIVE DISPOSITION OR ANY OTHER PRELIMINARY~~
17 ~~DISPOSITION OF ANY CHARGE UNDER THIS CHAPTER SHALL BE~~
18 ~~DISTRIBUTED AS PROVIDED FOR IN 42 PA.C.S. §§ 3571~~
19 ~~(RELATING TO COMMONWEALTH PORTION OF FINES, ETC.) AND~~
20 ~~3573 (RELATING TO MUNICIPAL CORPORATION PORTION OF FINES,~~
21 ~~ETC.).~~

22 ~~(VIII) THE DEFENDANT MUST PAY THE COSTS OF~~
23 ~~COMPLIANCE WITH SUBPARAGRAPHS (I), (II) AND (III).~~

24 ~~(2) THE DEFENDANT SHALL BE SUBJECT TO A FULL ASSESSMENT~~
25 ~~FOR ALCOHOL AND DRUG ADDICTION IF ANY OF THE FOLLOWING APPLY:~~

26 ~~(I) THE EVALUATION UNDER PARAGRAPH (1)(II) INDICATES~~
27 ~~A LIKELIHOOD THAT THE DEFENDANT IS ADDICTED TO ALCOHOL OR~~
28 ~~OTHER DRUGS.~~

29 ~~(II) THE DEFENDANT'S BLOOD ALCOHOL CONTENT AT THE~~
30 ~~TIME OF THE OFFENSE WAS AT LEAST .16%.~~

1 ~~(3) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL BE~~
2 ~~CONDUCTED BY ONE OF THE FOLLOWING:~~

3 ~~(I) THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.~~

4 ~~(II) THE COUNTY AGENCY WITH RESPONSIBILITY FOR~~
5 ~~COUNTY DRUG AND ALCOHOL PROGRAMS OR ITS DESIGNEE.~~

6 ~~(III) THE CLINICAL PERSONNEL OF A FACILITY LICENSED~~
7 ~~BY THE DEPARTMENT OF HEALTH FOR THE CONDUCT OF DRUG AND~~
8 ~~ALCOHOL ADDICTION TREATMENT PROGRAMS.~~

9 ~~(4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER~~
10 ~~ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR~~
11 ~~ALL OF THE FOLLOWING:~~

12 ~~(I) LENGTH OF STAY.~~

13 ~~(II) LEVELS OF CARE.~~

14 ~~(III) FOLLOW UP CARE AND MONITORING.~~

15 ~~(C) INSURANCE. IF AN INDIVIDUAL WHO IS A SUBSCRIBER TO A~~
16 ~~HEALTH INSURANCE, HEALTH MAINTENANCE ORGANIZATION OR OTHER~~
17 ~~HEALTH PLAN THAT IS DOING BUSINESS IN THIS COMMONWEALTH, THE~~
18 ~~INDIVIDUAL MAY NOT BE DEPRIVED OF ALCOHOL AND OTHER DRUG ABUSE~~
19 ~~AND ADDICTION TREATMENT OR COVERAGE WITHIN THE SCOPE OF THAT~~
20 ~~PLAN DUE TO THE IDENTIFICATION OF AN ALCOHOL OR OTHER DRUG~~
21 ~~PROBLEM WHICH OCCURS AS A RESULT OF AN ASSESSMENT UNDER THIS~~
22 ~~SECTION.~~

23 ~~(D) MANDATORY SUSPENSION OF OPERATING PRIVILEGES. AS A~~
24 ~~CONDITION OF PARTICIPATION IN AN ACCELERATED REHABILITATIVE~~
25 ~~DISPOSITION PROGRAM, THE COURT SHALL ORDER THE DEFENDANT'S~~
26 ~~LICENSE SUSPENDED AS FOLLOWS:~~

27 ~~(1) THERE SHALL BE NO LICENSE SUSPENSION IF THE~~
28 ~~DEFENDANT'S BLOOD ALCOHOL CONCENTRATION AT THE TIME OF~~
29 ~~TESTING WAS LESS THAN .10%.~~

30 ~~(2) FOR 30 DAYS, IF THE DEFENDANT'S BLOOD ALCOHOL~~

1 ~~CONCENTRATION AT THE TIME OF TESTING WAS AT LEAST .10% BUT~~
2 ~~LESS THAN .16%.~~

3 ~~(3) FOR 60 DAYS, IF:~~

4 ~~(I) THE DEFENDANT'S BLOOD ALCOHOL CONCENTRATION AT~~
5 ~~THE TIME OF TESTING WAS .16% OR HIGHER;~~

6 ~~(II) THE DEFENDANT'S BLOOD ALCOHOL CONCENTRATION IS~~
7 ~~NOT KNOWN; OR~~

8 ~~(III) AN ACCIDENT WHICH RESULTED IN BODILY INJURY OR~~
9 ~~IN DAMAGE TO A VEHICLE OR OTHER PROPERTY OCCURRED IN~~
10 ~~CONNECTION WITH THE EVENTS SURROUNDING THE CURRENT~~
11 ~~OFFENSE.~~

12 ~~(E) FAILURE TO COMPLY.—~~

13 ~~(1) A DEFENDANT WHO FAILS TO COMPLETE ANY OF THE~~
14 ~~CONDITIONS OF PARTICIPATION CONTAINED IN THIS SECTION SHALL~~
15 ~~BE DEEMED TO HAVE UNSUCCESSFULLY PARTICIPATED IN AN~~
16 ~~ACCELERATED REHABILITATIVE DISPOSITION PROGRAM, AND THE~~
17 ~~CRIMINAL RECORD UNDERLYING PARTICIPATION IN THE PROGRAM SHALL~~
18 ~~NOT BE EXPUNGED.~~

19 ~~(2) THE COURT SHALL DIRECT THE ATTORNEY FOR THE~~
20 ~~COMMONWEALTH TO PROCEED ON THE CHARGES AS PRESCRIBED IN THE~~
21 ~~RULES OF CRIMINAL PROCEDURE IF THE DEFENDANT:~~

22 ~~(I) FAILS TO MEET ANY OF THE REQUIREMENTS OF THIS~~
23 ~~SECTION;~~

24 ~~(II) IS CHARGED WITH OR COMMITS AN OFFENSE UNDER 18~~
25 ~~PA.C.S (RELATING TO CRIMES AND OFFENSES); OR~~

26 ~~(III) VIOLATES ANY OTHER CONDITION IMPOSED BY THE~~
27 ~~COURT.~~

28 ~~§ 3808. ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH~~
29 ~~IGNITION INTERLOCK.~~

30 ~~(A) OFFENSE DEFINED.—~~

1 ~~(1) AN INDIVIDUAL REQUIRED TO OPERATE ONLY A MOTOR~~
2 ~~VEHICLE EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM~~
3 ~~UNDER SECTION 1553(D.2) (RELATING TO OCCUPATIONAL LIMITED~~
4 ~~LICENSE) OR 3805 (RELATING TO IGNITION INTERLOCK) WHO~~
5 ~~OPERATES A MOTOR VEHICLE ON A HIGHWAY OF THIS COMMONWEALTH~~
6 ~~WITHOUT SUCH A SYSTEM COMMITS A SUMMARY OFFENSE AND SHALL,~~
7 ~~UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN~~
8 ~~\$300 AND NOT MORE THAN \$1,000 AND TO IMPRISONMENT FOR NOT~~
9 ~~MORE THAN 90 DAYS.~~

10 ~~(2) AN INDIVIDUAL REQUIRED TO OPERATE ONLY A MOTOR~~
11 ~~VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM UNDER~~
12 ~~SECTION 1553(D.2) OR 3805 WHO OPERATES A MOTOR VEHICLE ON A~~
13 ~~HIGHWAY OF THIS COMMONWEALTH WITHOUT SUCH A SYSTEM AND WHO~~
14 ~~HAS AN AMOUNT OF ALCOHOL BY WEIGHT IN HIS BLOOD THAT IS EQUAL~~
15 ~~TO OR GREATER THAN .02% OR WHO HAS ANY AMOUNT OF A SCHEDULE~~
16 ~~I, II OR III CONTROLLED SUBSTANCE, AS DEFINED IN THE IN THE~~
17 ~~ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE~~
18 ~~CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR ITS~~
19 ~~METABOLITE, WHICH HAS NOT BEEN MEDICALLY PRESCRIBED FOR THE~~
20 ~~INDIVIDUAL COMMITS A SUMMARY OFFENSE AND SHALL, UPON~~
21 ~~CONVICTION, BE SENTENCED TO PAY A FINE OF \$1,000 AND TO~~
22 ~~UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN 90 DAYS.~~

23 ~~(B) TAMPERING WITH AN INTERLOCK SYSTEM. A PERSON THAT~~
24 ~~TAMPERS WITH AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW~~
25 ~~COMMITTS A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE~~
26 ~~SENTENCED TO PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN~~
27 ~~\$1,000 AND TO UNDERGO IMPRISONMENT FOR NOT MORE THAN 90 DAYS.~~
28 ~~THE TERM "TAMPERING" IN ADDITION TO ANY PHYSICAL ACT WHICH IS~~
29 ~~INTENDED TO ALTER OR INTERFERE WITH THE PROPER FUNCTIONING OF AN~~
30 ~~IGNITION INTERLOCK DEVICE REQUIRED BY LAW SHALL INCLUDE~~

1 ~~ATTEMPTING TO CIRCUMVENT OR BYPASS OR CIRCUMVENTING OR BYPASSING~~
2 ~~AN IGNITION INTERLOCK DEVICE BY:~~

3 ~~(1) MEANS OF USING ANOTHER INDIVIDUAL TO PROVIDE A~~
4 ~~BREATH SAMPLE; OR~~

5 ~~(2) PROVIDING A BREATH SAMPLE FOR THE PURPOSE OF~~
6 ~~BYPASSING AN IGNITION INTERLOCK DEVICE REQUIRED BY LAW.~~

7 ~~(C) REVOCATION OF OPERATING PRIVILEGE. UPON RECEIVING A~~
8 ~~CERTIFIED RECORD OF THE CONVICTION OF AN INDIVIDUAL UNDER THIS~~
9 ~~SECTION, THE DEPARTMENT SHALL REVOKE THE INDIVIDUAL'S OPERATING~~
10 ~~PRIVILEGE FOR A PERIOD OF ONE YEAR.~~

11 ~~§ 3809. RESTRICTION ON ALCOHOLIC BEVERAGES.~~

12 ~~(A) GENERAL RULE. EXCEPT AS SET FORTH IN SUBSECTION (B), AN~~
13 ~~INDIVIDUAL WHO IS AN OPERATOR OR AN OCCUPANT IN A MOTOR VEHICLE~~
14 ~~MAY NOT BE IN POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER~~
15 ~~OR CONSUME A CONTROLLED SUBSTANCE AS DEFINED IN THE ACT OF APRIL~~
16 ~~14, 1972 (P.L. 233, NO. 64), KNOWN AS THE CONTROLLED SUBSTANCE,~~
17 ~~DRUG, DEVICE AND COSMETIC ACT, OR AN ALCOHOLIC BEVERAGE IN A~~
18 ~~MOTOR VEHICLE WHILE THE MOTOR VEHICLE IS LOCATED ON A HIGHWAY IN~~
19 ~~THIS COMMONWEALTH.~~

20 ~~(B) EXCEPTION. THIS SECTION DOES NOT PROHIBIT POSSESSION OR~~
21 ~~CONSUMPTION BY ANY OF THE FOLLOWING:~~

22 ~~(1) A PASSENGER IN THE PASSENGER AREA OF A MOTOR VEHICLE~~
23 ~~DESIGNED, MAINTAINED OR USED PRIMARILY FOR THE LAWFUL~~
24 ~~TRANSPORTATION OF PERSONS FOR COMPENSATION. THIS PARAGRAPH~~
25 ~~INCLUDES BUSES, TAXIS AND LIMOUSINES.~~

26 ~~(2) AN INDIVIDUAL IN THE LIVING QUARTERS OF A HOUSE~~
27 ~~COACH OR HOUSE TRAILER.~~

28 ~~(C) PENALTY. AN INDIVIDUAL WHO VIOLATES THIS SECTION~~
29 ~~COMMITS A SUMMARY OFFENSE.~~

30 ~~§ 3810. AUTHORIZED USE NOT A DEFENSE.~~

1 ~~THE FACT THAT A PERSON CHARGED WITH VIOLATING THIS CHAPTER IS~~
2 ~~OR HAS BEEN LEGALLY ENTITLED TO USE ALCOHOL OR CONTROLLED~~
3 ~~SUBSTANCES IS NOT A DEFENSE TO A CHARGE OF VIOLATING THIS~~
4 ~~CHAPTER.~~

5 ~~§ 3811. CERTAIN ARRESTS AUTHORIZED.~~

6 ~~(A) WARRANT NOT REQUIRED. IN ADDITION TO ANY OTHER POWERS~~
7 ~~OF ARREST, A POLICE OFFICER IS AUTHORIZED TO ARREST AN~~
8 ~~INDIVIDUAL WITHOUT A WARRANT IF THE OFFICER HAS PROBABLE CAUSE~~
9 ~~TO BELIEVE THAT THE INDIVIDUAL HAS VIOLATED SECTION 3802~~
10 ~~(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED~~
11 ~~SUBSTANCE), REGARDLESS OF WHETHER THE ALLEGED VIOLATION WAS~~
12 ~~COMMITTED IN THE PRESENCE OF THE POLICE OFFICER.~~

13 ~~(B) TERRITORY. THE AUTHORITY UNDER SUBSECTION (A) EXTENDS~~
14 ~~TO ANY HOSPITAL OR OTHER MEDICAL TREATMENT FACILITY LOCATED~~
15 ~~BEYOND THE TERRITORIAL LIMITS OF THE POLICE OFFICER'S POLITICAL~~
16 ~~SUBDIVISION AT WHICH AN INDIVIDUAL TO BE ARRESTED IS FOUND OR~~
17 ~~WAS TAKEN OR REMOVED FOR PURPOSES OF EMERGENCY TREATMENT,~~
18 ~~EXAMINATION OR EVALUATION AS LONG AS THERE IS PROBABLE CAUSE TO~~
19 ~~BELIEVE THAT THE VIOLATION OF SECTION 3802 OCCURRED WITHIN THE~~
20 ~~POLICE OFFICER'S POLITICAL SUBDIVISION.~~

21 ~~§ 3812. PRELIMINARY HEARING OR ARRAIGNMENT.~~

22 ~~THE PRESIDING JUDICIAL OFFICER AT THE PRELIMINARY HEARING OR~~
23 ~~PRELIMINARY ARRAIGNMENT RELATING TO A CHARGE OF A VIOLATION OF~~
24 ~~SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
25 ~~CONTROLLED SUBSTANCE) SHALL NOT REDUCE OR MODIFY THE ORIGINAL~~
26 ~~CHARGES WITHOUT THE CONSENT OF THE ATTORNEY FOR THE~~
27 ~~COMMONWEALTH.~~

28 ~~§ 3813. WORK RELEASE.~~

29 ~~IN ANY CASE IN WHICH AN INDIVIDUAL IS SENTENCED TO A PERIOD~~
30 ~~OF IMPRISONMENT AS A RESULT OF A CONVICTION FOR VIOLATING A~~

1 ~~PROVISION OF THIS CHAPTER, THE JUDICIAL OFFICER IMPOSING THE~~
2 ~~SENTENCE SHALL CONSIDER ASSIGNING THAT INDIVIDUAL TO A DAYTIME~~
3 ~~WORK RELEASE PROGRAM. ANY WORK RELEASE PROGRAM PERMITTED UNDER~~
4 ~~THIS SECTION SHALL BE CERTIFIED BY THE DRUG AND ALCOHOL~~
5 ~~TREATMENT PROGRAM ADMINISTRATION AS BEING CONSISTENT WITH ANY~~
6 ~~DRUG AND ALCOHOL TREATMENT REQUIREMENTS IMPOSED UNDER SECTION~~
7 ~~3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS).~~

8 ~~§ 3814. DRUG AND ALCOHOL ASSESSMENTS.~~

9 ~~IF A DEFENDANT IS CONVICTED OR PLEADS GUILTY OR NO CONTEST TO~~
10 ~~A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE~~
11 ~~OF ALCOHOL OR CONTROLLED SUBSTANCE), THE FOLLOWING APPLY PRIOR~~
12 ~~TO SENTENCING:~~

13 ~~(1) THE DEFENDANT SHALL BE EVALUATED UNDER SECTION~~
14 ~~3816(A) (RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE~~
15 ~~OFFENDERS) AND ANY OTHER ADDITIONAL EVALUATION TECHNIQUES~~
16 ~~DEEMED APPROPRIATE BY THE COURT TO DETERMINE THE EXTENT OF~~
17 ~~THE DEFENDANT'S INVOLVEMENT WITH ALCOHOL OR OTHER DRUG AND TO~~
18 ~~ASSIST THE COURT IN DETERMINING WHAT TYPE OF SENTENCE WOULD~~
19 ~~BENEFIT THE DEFENDANT AND THE PUBLIC.~~

20 ~~(2) THE DEFENDANT SHALL BE SUBJECT TO A FULL ASSESSMENT~~
21 ~~FOR ALCOHOL AND DRUG ADDICTION IF ALL OF THE FOLLOWING~~
22 ~~SUBPARAGRAPHS APPLY:~~

23 ~~(I) THE DEFENDANT, WITHIN TEN YEARS PRIOR TO THE~~
24 ~~OFFENSE FOR WHICH SENTENCE IS BEING IMPOSED, HAS BEEN~~
25 ~~SENTENCED FOR AN OFFENSE UNDER:~~

26 ~~(A) FORMER SECTION 3731 (RELATING TO DRIVING~~
27 ~~UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);~~

28 ~~(B) SECTION 3802; OR~~

29 ~~(C) AN EQUIVALENT OFFENSE IN ANOTHER~~
30 ~~JURISDICTION.~~

1 ~~(II) EITHER:~~

2 ~~(A) THE EVALUATION UNDER PARAGRAPH (1) INDICATES~~
3 ~~THERE IS A NEED FOR COUNSELING OR TREATMENT; OR~~

4 ~~(B) THE DEFENDANT'S BLOOD ALCOHOL CONTENT AT THE~~
5 ~~TIME OF THE OFFENSE WAS AT LEAST .16%.~~

6 ~~(3) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL BE~~
7 ~~CONDUCTED BY ONE OF THE FOLLOWING:~~

8 ~~(I) THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.~~

9 ~~(II) THE COUNTY AGENCY WITH RESPONSIBILITY FOR~~
10 ~~COUNTY DRUG AND ALCOHOL PROGRAMS OR ITS DESIGNEE.~~

11 ~~(III) THE CLINICAL PERSONNEL OF A FACILITY LICENSED~~
12 ~~BY THE DEPARTMENT OF HEALTH FOR THE CONDUCT OF DRUG AND~~
13 ~~ALCOHOL ADDICTION TREATMENT PROGRAMS.~~

14 ~~(4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER~~
15 ~~ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR~~
16 ~~ALL OF THE FOLLOWING:~~

17 ~~(I) LENGTH OF STAY.~~

18 ~~(II) LEVELS OF CARE.~~

19 ~~(III) FOLLOW UP CARE AND MONITORING.~~

20 ~~§ 3815. MANDATORY SENTENCING.~~

21 ~~(A) COUNTY SUPERVISION. NOTWITHSTANDING THE LENGTH OF ANY~~
22 ~~MAXIMUM TERM OF IMPRISONMENT REQUIRED BY SECTION 3804 (RELATING~~
23 ~~TO PENALTIES), THE SENTENCING JUDGE MAY SUBJECT THE OFFENDER TO~~
24 ~~THE SUPERVISION OF THE COUNTY PAROLE SYSTEM.~~

25 ~~(B) PAROLE.~~

26 ~~(1) AN OFFENDER WHO IS DETERMINED PURSUANT TO SECTION~~
27 ~~3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS) TO BE IN NEED~~
28 ~~OF DRUG AND ALCOHOL TREATMENT SHALL BE ELIGIBLE FOR PAROLE IN~~
29 ~~ACCORDANCE WITH THE TERMS AND CONDITIONS PRESCRIBED IN THIS~~
30 ~~SECTION FOLLOWING THE EXPIRATION OF THE OFFENDER'S MANDATORY~~

1 ~~MINIMUM TERM OF IMPRISONMENT.~~

2 ~~(2) THE FOLLOWING SHALL BE CONDITIONS OF PAROLE:~~

3 ~~(I) IF THE OFFENDER IS NOT DETERMINED UNDER THE~~
4 ~~PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO~~
5 ~~ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST REFRAIN~~
6 ~~FROM:~~

7 ~~(A) THE USE OF ILLEGAL CONTROLLED SUBSTANCES;~~

8 ~~AND~~

9 ~~(B) THE ABUSE OF PRESCRIPTION DRUGS, OVER THE~~
10 ~~COUNTER DRUGS OR ANY OTHER SUBSTANCES.~~

11 ~~(II) IF THE OFFENDER IS DETERMINED UNDER THE~~
12 ~~PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO~~
13 ~~ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST DO ALL OF~~
14 ~~THE FOLLOWING:~~

15 ~~(A) REFRAIN FROM:~~

16 ~~(I) THE USE OF ALCOHOL OR ILLEGAL CONTROLLED~~
17 ~~SUBSTANCES; AND~~

18 ~~(II) THE ABUSE OF PRESCRIPTION DRUGS, OVER~~
19 ~~THE COUNTER DRUGS OR ANY OTHER SUBSTANCES.~~

20 ~~(B) PARTICIPATE IN AND COOPERATE WITH DRUG AND~~
21 ~~ALCOHOL ADDICTION TREATMENT UNDER SUBSECTION (C).~~

22 ~~(C) TREATMENT.~~

23 ~~(1) TREATMENT MUST CONFORM TO ASSESSMENT RECOMMENDATIONS~~
24 ~~MADE UNDER SECTION 3814.~~

25 ~~(2) TREATMENT MUST BE CONDUCTED BY A DRUG AND ALCOHOL~~
26 ~~ADDICTION TREATMENT PROGRAM LICENSED BY THE DEPARTMENT OF~~
27 ~~HEALTH.~~

28 ~~(3) THE TREATMENT PROGRAM SHALL REPORT PERIODICALLY TO~~
29 ~~THE ASSIGNED PAROLE OFFICER ON THE OFFENDER'S PROGRESS IN THE~~
30 ~~TREATMENT PROGRAM. THE TREATMENT PROGRAM SHALL PROMPTLY~~

1 ~~NOTIFY THE PAROLE OFFICER IF THE OFFENDER:~~

2 ~~(I) FAILS TO COMPLY WITH PROGRAM RULES AND TREATMENT~~
3 ~~EXPECTATIONS;~~

4 ~~(II) REFUSES TO CONSTRUCTIVELY ENGAGE IN THE~~
5 ~~TREATMENT PROCESS; OR~~

6 ~~(III) WITHOUT AUTHORIZATION TERMINATES PARTICIPATION~~
7 ~~IN THE TREATMENT PROGRAM.~~

8 ~~(4) UPON NOTIFICATION UNDER PARAGRAPH (3), THE PAROLE~~
9 ~~OFFICER SHALL REPORT THE OFFENDER'S ACTIONS TO THE PAROLE~~
10 ~~AUTHORITY AND TO THE DEPARTMENT FOR COMPLIANCE WITH SECTION~~
11 ~~1553(E) (RELATING TO OCCUPATIONAL LIMITED LICENSE). THE~~
12 ~~PAROLE AUTHORITY SHALL SCHEDULE A REVOCATION HEARING TO~~
13 ~~CONSIDER RECOMMENDATIONS OF THE PAROLE OFFICER AND THE~~
14 ~~TREATMENT PROGRAM.~~

15 ~~(5) NOTHING IN THIS SUBSECTION SHALL PREVENT A TREATMENT~~
16 ~~PROGRAM FROM REFUSING TO ACCEPT AN OFFENDER IF THE PROGRAM~~
17 ~~ADMINISTRATOR DEEMS THE OFFENDER TO BE INAPPROPRIATE FOR~~
18 ~~ADMISSION TO THE PROGRAM. A TREATMENT PROGRAM SHALL RETAIN~~
19 ~~THE RIGHT TO IMMEDIATELY DISCHARGE INTO THE CUSTODY OF THE~~
20 ~~ASSIGNED PAROLE OFFICER AN OFFENDER WHO FAILS TO COMPLY WITH~~
21 ~~PROGRAM RULES AND TREATMENT EXPECTATIONS OR REFUSES TO~~
22 ~~CONSTRUCTIVELY ENGAGE IN THE TREATMENT PROCESS.~~

23 ~~(D) ENFORCEMENT. —~~

24 ~~(1) THIS SUBSECTION APPLIES TO AN OFFENDER ORDERED TO~~
25 ~~PARTICIPATE IN A TREATMENT PROGRAM UNDER SUBSECTION~~

26 ~~(B)(2)(II) WHO:~~

27 ~~(I) FAILS TO COMPLY WITH PROGRAM RULES AND TREATMENT~~
28 ~~EXPECTATIONS;~~

29 ~~(II) REFUSES TO CONSTRUCTIVELY ENGAGE IN THE~~
30 ~~TREATMENT PROCESS; OR~~

1 ~~(III) TERMINATES PARTICIPATION IN THE TREATMENT~~
2 ~~PROGRAM WITHOUT AUTHORIZATION.~~

3 ~~(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL OF~~
4 ~~THE FOLLOWING APPLY TO AN OFFENDER UNDER PARAGRAPH (1):~~

5 ~~(I) THE OFFENDER'S PAROLE, PRERELEASE, WORK RELEASE~~
6 ~~OR ANY OTHER RELEASE STATUS SHALL BE REVOKED.~~

7 ~~(II) THE OFFENDER SHALL BE INELIGIBLE FOR PAROLE,~~
8 ~~PRERELEASE, WORK RELEASE OR ANY OTHER RELEASE FROM THE~~
9 ~~CORRECTIONAL FACILITY PRIOR TO THE EXPIRATION OF THE~~
10 ~~OFFENDER'S MAXIMUM TERM UNLESS THE OFFENDER IS PERMITTED~~
11 ~~TO BE READMITTED TO A TREATMENT PROGRAM.~~

12 ~~(3) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO~~
13 ~~GRANT A LEGAL RIGHT TO PAROLE TO AN OFFENDER PREVIOUSLY~~
14 ~~INELIGIBLE FOR PAROLE, ON THE GROUNDS THAT THE OFFENDER IS~~
15 ~~CURRENTLY PREPARED TO PARTICIPATE IN, COMPLY WITH AND~~
16 ~~CONSTRUCTIVELY ENGAGE IN THE TREATMENT PROCESS. UNDER SUCH~~
17 ~~CIRCUMSTANCES, PAROLE OR REPAROLE OF THE OFFENDER SHALL BE AT~~
18 ~~THE PAROLE AUTHORITY'S DISCRETION.~~

19 ~~(E) FOLLOW UP. AFTER AN OFFENDER HAS COMPLETED THE~~
20 ~~TREATMENT PROGRAM UNDER SUBSECTION (C), THE PAROLE OFFICER SHALL~~
21 ~~TAKE REASONABLE STEPS TO ENSURE THAT THE OFFENDER DOES NOT ABUSE~~
22 ~~ALCOHOL, USE ILLEGAL CONTROLLED SUBSTANCES OR ABUSE PRESCRIPTION~~
23 ~~DRUGS, OVER THE COUNTER DRUGS OR ANY OTHER SUCH SUBSTANCES.~~

24 ~~THESE REASONABLE STEPS INCLUDE REQUIRING CHEMICAL TESTING AND~~
25 ~~PERIODIC REASSESSMENT OF THE OFFENDER BY THE TREATMENT PROGRAM.~~

26 ~~(F) FEES.~~

27 ~~(1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PAROLE~~
28 ~~AUTHORITY SHALL IMPOSE UPON AN OFFENDER SUBJECT TO THIS~~
29 ~~SECTION REASONABLE FEES TO COVER THE COST OF ANY OF THE~~
30 ~~FOLLOWING:~~

1 ~~(I) CHEMICAL TESTING OF THE OFFENDER REQUIRED UNDER~~
2 ~~THIS SECTION.~~

3 ~~(II) AN ASSESSMENT OF THE OFFENDER REQUIRED UNDER~~
4 ~~THIS SECTION.~~

5 ~~(III) DRUG OR ALCOHOL TREATMENT PROVIDED IN~~
6 ~~ACCORDANCE WITH THE ASSESSMENT.~~

7 ~~(2) IF THE PAROLE AUTHORITY FINDS THE OFFENDER TO BE~~
8 ~~UNABLE TO PAY THE FULL AMOUNT OF THE FEES REQUIRED BY~~
9 ~~PARAGRAPH (1) AND SECTION 1541(D) (RELATING TO PERIOD OF~~
10 ~~DISQUALIFICATION, REVOCATION OR SUSPENSION OF OPERATING~~
11 ~~PRIVILEGE), IT SHALL REQUIRE THE OFFENDER TO PAY AS MUCH OF~~
12 ~~THE FEE AS IS CONSISTENT WITH THE OFFENDER'S ABILITY TO PAY~~
13 ~~AND SHALL DIRECT THE ASSIGNED PAROLE OFFICER TO ESTABLISH A~~
14 ~~REASONABLE PAYMENT SCHEDULE FOR THE OFFENDER TO PAY AS MUCH~~
15 ~~OF THE REMAINING FEES AS IS CONSISTENT WITH THE OFFENDER'S~~
16 ~~ABILITY TO PAY.~~

17 ~~(G) INSURANCE. IF AN INDIVIDUAL WHO IS A SUBSCRIBER TO A~~
18 ~~HEALTH INSURANCE, HEALTH MAINTENANCE ORGANIZATION OR OTHER~~
19 ~~HEALTH PLAN THAT IS DOING BUSINESS IN THIS COMMONWEALTH, THE~~
20 ~~INDIVIDUAL MAY NOT BE DEPRIVED OF ALCOHOL AND OTHER DRUG ABUSE~~
21 ~~AND ADDICTION TREATMENT OR COVERAGE WITHIN THE SCOPE OF THAT~~
22 ~~PLAN DUE TO THE IDENTIFICATION OF AN ALCOHOL OR OTHER DRUG~~
23 ~~PROBLEM WHICH OCCURS AS A RESULT OF AN ASSESSMENT UNDER THIS~~
24 ~~SECTION.~~

25 ~~(H) ADDITIONAL FUNDING. IN ORDER TO SUPPORT AND AUGMENT THE~~
26 ~~DIAGNOSTIC ASSESSMENT AND TREATMENT SERVICES PROVIDED UNDER THIS~~
27 ~~SECTION, THE DEPARTMENT OF HEALTH, THE DEPARTMENT AND THE~~
28 ~~PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY SHALL SEEK ALL~~
29 ~~AVAILABLE FEDERAL FUNDING, INCLUDING FUNDS AVAILABLE THROUGH THE~~
30 ~~UNITED STATES NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND~~

1 ~~THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.~~

2 ~~§ 3816. REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS.~~

3 ~~(A) EVALUATION USING COURT REPORTING NETWORK. IN ADDITION~~
4 ~~TO ANY OTHER REQUIREMENTS OF THE COURT, EVERY PERSON CONVICTED~~
5 ~~OF A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER~~
6 ~~INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND EVERY PERSON~~
7 ~~OFFERED ACCELERATED REHABILITATIVE DISPOSITION AS A RESULT OF A~~
8 ~~CHARGE OF A VIOLATION OF SECTION 3802 SHALL, PRIOR TO SENTENCING~~
9 ~~OR RECEIVING ACCELERATED REHABILITATIVE DISPOSITION OR OTHER~~
10 ~~PRELIMINARY DISPOSITION, BE EVALUATED USING COURT REPORTING~~
11 ~~NETWORK INSTRUMENTS ISSUED BY THE DEPARTMENT AND ANY OTHER~~
12 ~~ADDITIONAL EVALUATION TECHNIQUES DEEMED APPROPRIATE BY THE COURT~~
13 ~~TO DETERMINE THE EXTENT OF THE PERSON'S INVOLVEMENT WITH ALCOHOL~~
14 ~~OR CONTROLLED SUBSTANCES AND TO ASSIST THE COURT IN DETERMINING~~
15 ~~WHAT SENTENCING, PROBATION OR CONDITIONS OF ACCELERATED~~
16 ~~REHABILITATIVE DISPOSITION WOULD BENEFIT THE PERSON OR THE~~
17 ~~PUBLIC.~~

18 ~~(B) COURT ORDERED INTERVENTION OR TREATMENT. A RECORD SHALL~~
19 ~~BE SUBMITTED TO THE DEPARTMENT AS TO WHETHER THE COURT DID OR~~
20 ~~DID NOT ORDER A DEFENDANT TO ATTEND DRUG AND ALCOHOL TREATMENT~~
21 ~~PURSUANT TO THE REQUIREMENTS OF SECTIONS 3804 (RELATING TO~~
22 ~~PENALTIES), 3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS) AND~~
23 ~~3815 (RELATING TO MANDATORY SENTENCING). IF THE COURT ORDERS~~
24 ~~TREATMENT, A REPORT SHALL BE FORWARDED TO THE DEPARTMENT AS TO~~
25 ~~WHETHER THE DEFENDANT SUCCESSFULLY COMPLETED THE PROGRAM. IF A~~
26 ~~DEFENDANT FAILS TO SUCCESSFULLY COMPLETE A PROGRAM OF TREATMENT~~
27 ~~AS ORDERED BY THE COURT, THE SUSPENSION SHALL REMAIN IN EFFECT~~
28 ~~UNTIL THE DEPARTMENT IS NOTIFIED BY THE COURT THAT THE DEFENDANT~~
29 ~~HAS SUCCESSFULLY COMPLETED TREATMENT AND THE DEFENDANT IS~~
30 ~~OTHERWISE ELIGIBLE FOR RESTORATION OF HIS OPERATING PRIVILEGE.~~

1 ~~IN ORDER TO IMPLEMENT THE RECORDKEEPING REQUIREMENTS OF THIS~~
2 ~~SECTION, THE DEPARTMENT AND THE COURT SHALL WORK TOGETHER TO~~
3 ~~EXCHANGE PERTINENT INFORMATION ABOUT A DEFENDANT'S CASE,~~
4 ~~INCLUDING ATTENDANCE AND COMPLETION OF TREATMENT OR FAILURE TO~~
5 ~~COMPLETE TREATMENT.~~

6 ~~§ 3817. REPORTING REQUIREMENTS FOR OFFENSES.~~

7 ~~(A) REQUIREMENT. THE DEPARTMENT SHALL MAKE AN ANNUAL REPORT~~
8 ~~ON THE ADMINISTRATION OF THIS CHAPTER. THE DEPARTMENT, THE~~
9 ~~COURTS AND THE PENNSYLVANIA SENTENCING COMMISSION SHALL WORK~~
10 ~~TOGETHER TO EXCHANGE PERTINENT INFORMATION NECESSARY TO COMPLETE~~
11 ~~THIS REPORT.~~

12 ~~(B) CONTENTS. THE REPORT SHALL INCLUDE:~~

13 ~~(1) THE NUMBER OF OFFENDERS.~~

14 ~~(2) THE NUMBER OF OFFENDERS SUBJECT TO SECTION 3815~~
15 ~~(RELATING TO MANDATORY SENTENCING).~~

16 ~~(3) THE NUMBER OF OFFENDERS SENT TO TREATMENT FOR~~
17 ~~ALCOHOL AND DRUG PROBLEMS AND ADDICTION.~~

18 ~~(4) THE NAMES OF THE TREATMENT FACILITIES PROVIDING~~
19 ~~TREATMENT AND THE LEVEL OF CARE AND LENGTH OF STAY IN~~
20 ~~TREATMENT.~~

21 ~~(5) THE NUMBER OF OFFENDERS SUCCESSFULLY COMPLETING~~
22 ~~TREATMENT.~~

23 ~~(6) THE NUMBER OF SUSPENDED LICENSES RETURNED AFTER~~
24 ~~COMPLETION OF TREATMENT.~~

25 ~~(7) THE NUMBER OF FIRST, SECOND, THIRD AND SUBSEQUENT~~
26 ~~OFFENDERS.~~

27 ~~(C) RECIPIENTS. THE ANNUAL REPORT SHALL BE SUBMITTED TO THE~~
28 ~~JUDICIARY COMMITTEE, PUBLIC HEALTH AND WELFARE COMMITTEE AND~~
29 ~~TRANSPORTATION COMMITTEE OF THE SENATE; THE HEALTH AND HUMAN~~
30 ~~SERVICES COMMITTEE, JUDICIARY COMMITTEE AND TRANSPORTATION~~

1 ~~COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND THE BUREAU OF~~
2 ~~DRUG AND ALCOHOL PROGRAMS. THE REPORT SHALL BE MADE AVAILABLE TO~~
3 ~~THE PUBLIC.~~

4 ~~SECTION 20. SECTION 6109(A)(1) AND (F) OF TITLE 75 ARE~~
5 ~~AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO~~
6 ~~READ:~~

7 ~~§ 6109. SPECIFIC POWERS OF DEPARTMENT AND LOCAL AUTHORITIES.~~

8 ~~(A) ENUMERATION OF POLICE POWERS. THE PROVISIONS OF THIS~~
9 ~~TITLE SHALL NOT BE DEEMED TO PREVENT THE DEPARTMENT ON STATE-~~
10 ~~DESIGNATED HIGHWAYS AND LOCAL AUTHORITIES ON STREETS OR HIGHWAYS~~
11 ~~WITHIN THEIR PHYSICAL BOUNDARIES FROM THE REASONABLE EXERCISE OF~~
12 ~~THEIR POLICE POWERS. THE FOLLOWING ARE PRESUMED TO BE REASONABLE~~
13 ~~EXERCISES OF POLICE POWER:~~

14 ~~(1) [REGULATING] EXCEPT AS LIMITED BY SUBSECTION (G),~~
15 ~~REGULATING OR PROHIBITING STOPPING, STANDING OR PARKING.~~

16 * * *

17 ~~(F) DELEGATION OF POWERS AUTHORIZED. [NOTHING] EXCEPT AS~~
18 ~~SET FORTH IN SUBSECTION (G), NOTHING CONTAINED IN THIS SECTION~~
19 ~~SHALL BE DEEMED TO PREVENT LOCAL AUTHORITIES BY ORDINANCE OR~~
20 ~~RESOLUTION OF THE LOCAL GOVERNING BODY FROM DELEGATING THEIR~~
21 ~~POWERS UNDER SUBSECTION (A)(1) OR (22) TO A PARKING AUTHORITY~~
22 ~~ESTABLISHED PURSUANT TO [THE ACT OF JUNE 5, 1947 (P.L.458,~~
23 ~~NO.208), KNOWN AS THE "PARKING AUTHORITY LAW."] 53 PA.C.S. CH.~~
24 ~~55 (RELATING TO PARKING AUTHORITIES).~~

25 ~~(G) DELEGATION OF POWERS IN CITIES OF THE FIRST CLASS.~~

26 ~~(1) NOTWITHSTANDING ANY CONTRARY PROVISION OF 53 PA.C.S.~~
27 ~~CH. 55 OR THIS TITLE, THE PARKING AUTHORITY OF A CITY OF THE~~
28 ~~FIRST CLASS SHALL ENFORCE AND ADMINISTER ALL ORDINANCES AND~~
29 ~~RESOLUTIONS ENACTED OR ADOPTED BY THE CITY OF THE FIRST CLASS~~
30 ~~PURSUANT TO THE POWERS SPECIFIED UNDER SUBSECTION (A)(1).~~

1 ~~(2) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND~~
2 ~~PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS~~
3 ~~PARAGRAPH:~~

4 ~~"ADMINISTER." TO PROVIDE ANY SERVICES OR MATERIALS~~
5 ~~NECESSARY TO ENFORCE ANY ORDINANCE OR RESOLUTION ENACTED IN~~
6 ~~ORDER TO REGULATE OR PROHIBIT THE STOPPING, STANDING OR~~
7 ~~PARKING OF MOTOR VEHICLES IN A CITY OF THE FIRST CLASS,~~
8 ~~INCLUDING, BUT NOT LIMITED TO:~~

9 ~~(I) THE INSTALLATION AND MAINTENANCE OF ALL~~
10 ~~EQUIPMENT, INCLUDING PARKING METERS, ON AND ALONG~~
11 ~~HIGHWAYS, STREETS AND ROADWAYS.~~

12 ~~(II) THE INSTALLATION AND MAINTENANCE OF ALL~~
13 ~~SIGNAGE, INCLUDING SIGNAGE FOR HANDICAPPED PARKING,~~
14 ~~RESIDENTIAL PERMIT PARKING AND LOADING AREAS, ON AND~~
15 ~~ALONG HIGHWAYS, STREETS AND ROADWAYS.~~

16 ~~(III) THE OPERATION AND MANAGEMENT OF ANY~~
17 ~~HANDICAPPED PARKING, RESIDENTIAL PARKING AND LOADING AREA~~
18 ~~PERMIT PROGRAMS.~~

19 ~~(IV) THE ADJUDICATION OF ALL DISPUTED PARKING~~
20 ~~VIOLATION NOTICES OR CITATIONS ISSUED THROUGH ENFORCEMENT~~
21 ~~BY THE PARKING AUTHORITY IN A CITY OF THE FIRST CLASS OR~~
22 ~~THE POLICE DEPARTMENT WITH JURISDICTION OVER THE CITY OF~~
23 ~~THE FIRST CLASS.~~

24 ~~"ENFORCE." THE ISSUANCE OF PARKING VIOLATION NOTICES OR~~
25 ~~CITATIONS, THE IMMOBILIZATION, TOWING AND IMPOUNDMENT OF~~
26 ~~MOTOR VEHICLES AND THE COLLECTION OF FINES, PENALTIES AND~~
27 ~~COSTS FOR VIOLATIONS OF ANY ORDINANCE OR RESOLUTION ENACTED~~
28 ~~IN ORDER TO REGULATE OR PROHIBIT THE STOPPING, STANDING OR~~
29 ~~PARKING OF MOTOR VEHICLES IN A CITY OF THE FIRST CLASS.~~

30 ~~SECTION 21. SECTIONS 6308(B) AND 6506(A) AND (B) OF TITLE 75~~

1 ~~ARE AMENDED TO READ:~~

2 ~~§ 6308. INVESTIGATION BY POLICE OFFICERS.~~

3 ~~* * *~~

4 ~~(B) AUTHORITY OF POLICE OFFICER. WHENEVER A POLICE OFFICER~~
5 ~~IS ENGAGED IN A SYSTEMATIC PROGRAM OF CHECKING VEHICLES OR~~
6 ~~DRIVERS OR HAS [ARTICULABLE AND REASONABLE GROUNDS TO SUSPECT A~~
7 ~~VIOLATION OF THIS TITLE,] REASONABLE SUSPICION THAT A VIOLATION~~
8 ~~OF THIS TITLE IS OCCURRING OR HAS OCCURRED, HE MAY STOP A~~
9 ~~VEHICLE, UPON REQUEST OR SIGNAL, FOR THE PURPOSE OF CHECKING THE~~
10 ~~VEHICLE'S REGISTRATION, PROOF OF FINANCIAL RESPONSIBILITY,~~
11 ~~VEHICLE IDENTIFICATION NUMBER OR ENGINE NUMBER OR THE DRIVER'S~~
12 ~~LICENSE, OR TO SECURE SUCH OTHER INFORMATION AS THE OFFICER MAY~~
13 ~~REASONABLY BELIEVE TO BE NECESSARY TO ENFORCE THE PROVISIONS OF~~
14 ~~THIS TITLE.~~

15 ~~* * *~~

16 ~~§ 6506. SURCHARGE.~~

17 ~~(A) LEVY AND IMPOSITION. IN ADDITION TO ANY FINES, FEES OR~~
18 ~~PENALTIES LEVIED OR IMPOSED AS PROVIDED BY LAW, UNDER THIS TITLE~~
19 ~~OR ANY OTHER STATUTE, A SURCHARGE SHALL BE LEVIED FOR~~
20 ~~DISPOSITION IN ACCORDANCE WITH SUBSECTION (B) AS FOLLOWS:~~

21 ~~(1) UPON CONVICTION FOR ANY VIOLATION OF THE PROVISIONS~~
22 ~~OF THIS TITLE OR OTHER STATUTE OF THE COMMONWEALTH, OR~~
23 ~~REGULATIONS PROMULGATED UNDER THIS TITLE, WHICH IS A TRAFFIC~~
24 ~~VIOLATION AND WHICH IS NOT INCLUDED WITHIN THE PROVISIONS OF~~
25 ~~PARAGRAPHS (2) THROUGH (7), EXCLUSIVE OF PARKING OFFENSES, A~~
26 ~~SURCHARGE OF \$30.~~

27 ~~(2) UPON CONVICTION FOR A VIOLATION OF THE FOLLOWING~~
28 ~~PROVISIONS OF THIS TITLE, A SURCHARGE OF \$40:~~

29 ~~(I) SECTION 3306(A)(1) (RELATING TO LIMITATIONS ON~~
30 ~~DRIVING ON LEFT SIDE OF ROADWAY).~~

1 ~~(II) SECTION 3745 (RELATING TO ACCIDENTS INVOLVING~~
2 ~~DAMAGE TO UNATTENDED VEHICLE OR PROPERTY).~~

3 ~~(3) UPON CONVICTION FOR A VIOLATION OF SECTION 3345(A)~~
4 ~~(RELATING TO MEETING OR OVERTAKING SCHOOL BUS), A SURCHARGE~~
5 ~~OF \$50.~~

6 ~~(4) UPON CONVICTION FOR A VIOLATION OF SECTION 3362~~
7 ~~(RELATING TO MAXIMUM SPEED LIMITS), THE FOLLOWING APPLICABLE~~
8 ~~SURCHARGE:~~

9 ~~(I) \$30 FOR EXCEEDING THE MAXIMUM SPEED LIMIT BY 6~~
10 ~~TO 10 MILES PER HOUR OR 11 TO 15 MILES PER HOUR.~~

11 ~~(II) \$40 FOR EXCEEDING THE MAXIMUM SPEED LIMIT BY 16~~
12 ~~TO 25 MILES PER HOUR.~~

13 ~~(III) \$50 FOR EXCEEDING THE MAXIMUM SPEED LIMIT BY~~
14 ~~AT LEAST 26 MILES PER HOUR.~~

15 ~~(5) UPON CONVICTION FOR VIOLATION OF SECTION 4902~~
16 ~~(RELATING TO RESTRICTIONS ON USE OF HIGHWAYS AND BRIDGES),~~
17 ~~SUBCHAPTER C OF CHAPTER 49 (RELATING TO MAXIMUM WEIGHTS OF~~
18 ~~VEHICLES) OR SUBCHAPTER E OF CHAPTER 49 (RELATING TO~~
19 ~~MEASURING AND ADJUSTING VEHICLE SIZE AND WEIGHT), A SURCHARGE~~
20 ~~OF \$150.~~

21 ~~(6) UPON CONVICTION FOR VIOLATION OF CHAPTER 47~~
22 ~~(RELATING TO INSPECTION OF VEHICLES), BY THE OWNER OR~~
23 ~~OPERATOR OR DRIVER OF A VEHICLE WHICH IS SUBJECT TO THE~~
24 ~~PROVISIONS OF CHAPTER 49 (RELATING TO SIZE, WEIGHT AND LOAD),~~
25 ~~A SURCHARGE OF \$30.~~

26 ~~(7) UPON CONVICTION OF OFFENSES UNDER SECTION [3731]~~
27 ~~3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR~~
28 ~~CONTROLLED SUBSTANCE), OR UPON ADMISSION TO PROGRAMS FOR~~
29 ~~ACCELERATED REHABILITATIVE DISPOSITION FOR OFFENSES~~
30 ~~ENUMERATED IN SECTION [3731] 3802, A SURCHARGE, RESPECTIVELY,~~

1 OF:-

2 ~~(I) \$50 FOR THE FIRST OFFENSE.~~

3 ~~(II) \$100 FOR THE SECOND OFFENSE.~~

4 ~~(III) \$200 FOR THE THIRD OFFENSE.~~

5 ~~(IV) \$300 FOR THE FOURTH AND SUBSEQUENT OFFENSES.~~

6 ~~THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO ANY~~
7 ~~VIOLATION COMMITTED BY THE OPERATOR OF A MOTORCYCLE, MOTOR-~~
8 ~~DRIVEN CYCLE, PEDALCYCLE, MOTORIZED PEDALCYCLE OR RECREATIONAL~~
9 ~~VEHICLE NOT INTENDED FOR HIGHWAY USE.~~

10 ~~(8) UPON CONVICTION, IN A CITY OF THE FIRST CLASS, OF~~
11 ~~ANY VIOLATION OF THIS TITLE, A SURCHARGE OF \$10.~~

12 ~~(B) DISPOSITION.~~

13 ~~(1) NOTWITHSTANDING THE PROVISIONS OF 42 PA.C.S. §§ 3571~~
14 ~~(RELATING TO COMMONWEALTH PORTION OF FINES, ETC.) AND 3573~~
15 ~~(RELATING TO MUNICIPAL CORPORATION PORTION OF FINES, ETC.)[,~~
16 ~~ALL];~~

17 ~~(I) ALL SURCHARGES LEVIED AND COLLECTED UNDER~~
18 ~~SUBSECTION (A)(1) THROUGH (7) BY ANY DIVISION OF THE~~
19 ~~UNIFIED JUDICIAL SYSTEM EXISTING UNDER SECTION 1 OF~~
20 ~~ARTICLE V OF THE CONSTITUTION OF PENNSYLVANIA AND 42~~
21 ~~PA.C.S. § 301 (RELATING TO UNIFIED JUDICIAL SYSTEM) SHALL~~
22 ~~BE REMITTED TO THE COMMONWEALTH FOR DEPOSIT IN THE~~
23 ~~CATASTROPHIC LOSS BENEFITS CONTINUATION FUND FOR THE~~
24 ~~PURPOSE OF FUNDING CATASTROPHIC LOSS BENEFITS IN~~
25 ~~ACCORDANCE WITH SECTION 1798.2 (RELATING TO TRANSITION).~~

26 ~~(II) ALL SURCHARGES LEVIED AND COLLECTED UNDER~~
27 ~~SUBSECTION (A)(8) BY SUCH DIVISION OF THE UNIFIED~~
28 ~~JUDICIAL SYSTEM SHALL BE REMITTED TO THE APPROPRIATE~~
29 ~~TOWING AND STORAGE AGENT AS SET FORTH IN SECTION~~
30 ~~6309.2(E) (RELATING TO IMMOBILIZATION, TOWING AND STORAGE~~

~~OF VEHICLE FOR DRIVING WITHOUT OPERATING PRIVILEGES OR
REGISTRATION) FOR PURPOSES OF FUNDING ITS COSTS
ASSOCIATED WITH SUBCHAPTER A OF CHAPTER 63 (RELATING TO
GENERAL PROVISIONS).~~

~~(III) IF THE SURCHARGE IS BEING PAID IN
INSTALLMENTS, THE SURCHARGE SHALL BE REMITTED ON EACH
INSTALLMENT.~~

~~(2) THE SURCHARGES LEVIED AND COLLECTED UNDER SUBSECTION
(A) SHALL NOT BE DEPOSITED FOR THE CREDIT OR USE OF, OR
OTHERWISE ALLOCATED, DIRECTED OR PAID TO, COUNTIES OR
MUNICIPALITIES UNDER THE PROVISIONS OF 42 PA.C.S. CH. 35
SUBCH. E (RELATING TO FINES, ETC.), OR ANY OTHER STATUTE, THE
CRIME VICTIM'S COMPENSATION BOARD UNDER SECTION 477.15(B) OF
THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
ADMINISTRATIVE CODE OF 1929, THE COMMISSION ON CRIME AND
DELINQUENCY FOR VICTIM WITNESS SERVICES GRANTS UNDER SECTION
477.15(C) OF THE ADMINISTRATIVE CODE OF 1929, RAPE CRISIS
CENTERS, THE EMERGENCY MEDICAL SERVICES OPERATING FUND,
DOMESTIC VIOLENCE SHELTERS, THE JUDICIAL COMPUTER SYSTEM
AUGMENTATION ACCOUNT ESTABLISHED UNDER 42 PA.C.S. CH. 37
SUBCH. C (RELATING TO JUDICIAL COMPUTER SYSTEM) OR UNDER ANY
OTHER STATUTE.~~

~~* * *~~

~~SECTION 22. THE ADDITION OF 75 PA.C.S. §§ 3814 AND 3815
SHALL APPLY AS FOLLOWS:~~

~~(1) EXCEPT AS SET FORTH IN PARAGRAPH (2) OR (3), AFTER
JUNE 30, 2009, FOR AN OFFENDER SENTENCED UNDER THIS CHAPTER.~~

~~(2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, FOR
AN OFFENDER SENTENCED FOR A MISDEMEANOR OF THE FIRST DEGREE.~~

~~(3) AFTER JUNE 30, 2006, FOR AN OFFENDER SENTENCED~~

1 ~~PURSUANT TO SECTION 3804(A)(3), (B)(2) AND (C)(1).~~

2 ~~SECTION 23. THE DEPARTMENT OF TRANSPORTATION HAS THE~~
3 ~~FOLLOWING DUTIES:~~

4 ~~(1) IN ORDER TO IMPLEMENT THE ADDITION OF 75 PA.C.S. §~~
5 ~~3805, THE FOLLOWING SHALL APPLY:~~

6 ~~(I) THE DEPARTMENT SHALL ADOPT AND USE GUIDELINES,~~
7 ~~WHICH SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.~~
8 ~~THE GUIDELINES SHALL NOT BE SUBJECT TO REVIEW UNDER~~
9 ~~SECTION 205 OF THE ACT OF JULY 31, 1968 (P.L.769,~~
10 ~~NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW,~~
11 ~~AND THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS~~
12 ~~THE REGULATORY REVIEW ACT.~~

13 ~~(II) BY SEPTEMBER 30, 2004, THE DEPARTMENT SHALL, IN~~
14 ~~ACCORDANCE WITH LAW, PROMULGATE REGULATIONS TO REPLACE~~
15 ~~THE GUIDELINES UNDER SUBPARAGRAPH (I).~~

16 ~~(III) THE GUIDELINES UNDER SUBPARAGRAPH (I) SHALL:~~

17 ~~(A) TAKE EFFECT SEPTEMBER 30, 2003, OR~~

18 ~~IMMEDIATELY, WHICHEVER IS LATER; AND~~

19 ~~(B) EXPIRE ON THE EARLIER OF:~~

20 ~~(I) THE EFFECTIVE DATE OF REGULATIONS UNDER~~
21 ~~SUBPARAGRAPH (II); OR~~

22 ~~(II) SEPTEMBER 30, 2005.~~

23 ~~(2) BY OCTOBER 1, 2004, THE DEPARTMENT SHALL PROMULGATE~~
24 ~~REGULATIONS TO IMPLEMENT 75 PA.C.S. § 1549(B).~~

25 ~~SECTION 24. THE ADDITION OF 75 PA.C.S. CH. 38 IS A~~
26 ~~CONTINUATION OF FORMER 75 PA.C.S. § 3731. THE REPEAL OF 75~~
27 ~~PA.C.S. § 3731 SHALL NOT AFFECT OFFENSES COMMITTED PRIOR TO THE~~
28 ~~EFFECTIVE DATE OF THIS SECTION.~~

29 ~~SECTION 25. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:~~

30 ~~(1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 60~~

1 ~~DAYS:~~

2 ~~(I) THE AMENDMENT OF 75 PA.C.S. § 1332(B).~~

3 ~~(II) THE ADDITION OF 75 PA.C.S. § 1332(C).~~

4 ~~(III) THE AMENDMENT OF 75 PA.C.S. § 3116(L)(2) AND~~

5 ~~(Q).~~

6 ~~(IV) THE AMENDMENT OF 75 PA.C.S. § 6109(A)(1) AND~~

7 ~~(F).~~

8 ~~(V) THE ADDITION OF 75 PA.C.S. § 6109(G).~~

9 ~~(VI) THE ADDITION OF 75 PA.C.S. § 6506(A)(8).~~

10 ~~(VII) THE AMENDMENT OF 75 PA.C.S. § 6506(B).~~

11 ~~(2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT~~

12 ~~IMMEDIATELY:~~

13 ~~(I) SECTION 23 OF THIS ACT.~~

14 ~~(II) THIS SECTION.~~

15 ~~(3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT~~

16 ~~SEPTEMBER 30, 2003, OR IMMEDIATELY, WHICHEVER IS LATER.~~

17 ~~SECTION 1. SECTIONS 6105(C)(3) AND 7508.1(B) AND (C) OF~~ <—

18 ~~TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED~~

19 ~~TO READ:~~

20 SECTION 1. SECTION 6105(C)(3) OF TITLE 18 OF THE

21 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

22 § 6105. PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL

23 OR TRANSFER FIREARMS.

24 * * *

25 (C) OTHER PERSONS.--IN ADDITION TO ANY PERSON WHO HAS BEEN

26 CONVICTED OF ANY OFFENSE LISTED UNDER SUBSECTION (B), THE

27 FOLLOWING PERSONS SHALL BE SUBJECT TO THE PROHIBITION OF

28 SUBSECTION (A):

29 * * *

30 (3) A PERSON WHO HAS BEEN CONVICTED OF DRIVING UNDER THE

1 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE AS PROVIDED IN
2 75 PA.C.S. § [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE
3 OF ALCOHOL OR CONTROLLED SUBSTANCE) ON THREE OR MORE SEPARATE
4 OCCASIONS WITHIN A FIVE-YEAR PERIOD. FOR THE PURPOSES OF THIS
5 PARAGRAPH ONLY, THE PROHIBITION OF SUBSECTION (A) SHALL ONLY
6 APPLY TO TRANSFERS OR PURCHASES OF FIREARMS AFTER THE THIRD
7 CONVICTION.

8 * * *

9 SECTION 1.1. SECTION 7508.1(B) AND (C) OF TITLE 18, ADDED
10 DECEMBER 9, 2002 (P.L.1539, NO.198), IS AMENDED TO READ:

11 § 7508.1. SUBSTANCE ABUSE EDUCATION AND DEMAND REDUCTION FUND.

12 * * *

13 (B) IMPOSITION.--UNLESS THE COURT FINDS THAT UNDUE HARDSHIP
14 WOULD RESULT, A MANDATORY COST OF \$100, WHICH SHALL BE IN
15 ADDITION TO ANY OTHER COSTS IMPOSED PURSUANT TO STATUTORY
16 AUTHORITY, SHALL AUTOMATICALLY BE ASSESSED ON ANY INDIVIDUAL
17 CONVICTED, ADJUDICATED DELINQUENT OR GRANTED ACCELERATED
18 REHABILITATIVE DISPOSITION OR ANY INDIVIDUAL WHO PLEADS GUILTY
19 OR NOLO CONTENDERE FOR A VIOLATION OF THE ACT OF APRIL 14, 1972
20 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
21 DEVICE AND COSMETIC ACT, OR A VIOLATION OF 75 PA.C.S. § [3731]
22 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
23 CONTROLLED SUBSTANCE).

24 (C) ADDITIONAL ASSESSMENT.--IN ADDITION TO THE ASSESSMENT
25 REQUIRED BY SUBSECTION (B), A PERSON CONVICTED OF OR ADJUDICATED
26 DELINQUENT FOR A VIOLATION OF 75 PA.C.S. § [3731] 3802 SHALL BE
27 ASSESSED \$200 WHERE THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
28 OF THE PERSON IS EQUAL TO OR GREATER THAN [.15%] .16% AT THE
29 TIME A CHEMICAL TEST IS PERFORMED ON A SAMPLE OF THE PERSON'S
30 BREATH, BLOOD OR URINE. FOR THE PURPOSES OF THIS SUBSECTION, THE

1 SAMPLE OF THE PERSON'S BLOOD, BREATH OR URINE SHALL BE TAKEN
2 WITHIN [TWO] THREE HOURS AFTER THE PERSON IS PLACED UNDER
3 ARREST.

4 * * *

5 SECTION 2. SECTION 7514 OF TITLE 18 IS REPEALED.

6 SECTION 3. SECTION 5502(A)(4) AND (A.1)(1) OF TITLE 30 ARE
7 AMENDED TO READ:

8 § 5502. OPERATING WATERCRAFT UNDER INFLUENCE OF ALCOHOL OR
9 CONTROLLED SUBSTANCE.

10 (A) GENERAL RULE.--NO PERSON SHALL OPERATE OR BE IN ACTUAL
11 PHYSICAL CONTROL OF THE MOVEMENT OF A WATERCRAFT UPON, IN OR
12 THROUGH THE WATERS OF THIS COMMONWEALTH:

13 * * *

14 (4) WHILE THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
15 OF:

16 (I) AN ADULT IS [0.10%] 0.08% OR GREATER; OR

17 (II) A MINOR IS 0.02% OR GREATER.

18 (A.1) PRIMA FACIE EVIDENCE.--

19 (1) IT IS PRIMA FACIE EVIDENCE THAT:

20 (I) AN ADULT HAD [0.10%] 0.08% OR MORE BY WEIGHT OF
21 ALCOHOL IN HIS OR HER BLOOD AT THE TIME OF OPERATING OR
22 BEING IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A
23 WATERCRAFT IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE
24 BLOOD OF THE PERSON IS EQUAL TO OR GREATER THAN [0.10%]
25 0.08% AT THE TIME A CHEMICAL TEST IS PERFORMED ON A
26 SAMPLE OF THE PERSON'S BREATH, BLOOD OR URINE; AND

27 (II) A MINOR HAD 0.02% OR MORE BY WEIGHT OF ALCOHOL
28 IN HIS OR HER BLOOD AT THE TIME OF OPERATING OR BEING IN
29 ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A WATERCRAFT
30 IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF THE

1 MINOR IS EQUAL TO OR GREATER THAN 0.02% AT THE TIME A
2 CHEMICAL TEST IS PERFORMED ON A SAMPLE OF THE PERSON'S
3 BREATH, BLOOD OR URINE.

4 * * *

5 SECTION 4. SECTIONS 2501(A)(4) AND (A.1)(1)(I) AND (B) AND
6 2502(D)(2) AND (3) OF TITLE 34 ARE AMENDED TO READ:

7 § 2501. HUNTING OR FUR TAKING PROHIBITED WHILE UNDER INFLUENCE
8 OF ALCOHOL OR CONTROLLED SUBSTANCE.

9 (A) GENERAL RULE.--IT IS UNLAWFUL TO HUNT OR TAKE GAME,
10 FURBEARERS OR WILDLIFE OR AID, ABET, ASSIST OR CONSPIRE TO HUNT
11 OR TAKE GAME, FURBEARERS OR WILDLIFE ANYWHERE IN THIS
12 COMMONWEALTH WHILE IN POSSESSION OF A FIREARM OF ANY KIND OR A
13 BOW AND ARROW IF:

14 * * *

15 (4) THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF:
16 (I) AN ADULT IS [0.10%] 0.08% OR GREATER; OR
17 (II) A MINOR IS 0.02% OR GREATER.

18 (A.1) PRIMA FACIE EVIDENCE.--

19 (1) IT IS PRIMA FACIE EVIDENCE THAT:

20 (I) AN ADULT HAD [0.10%] 0.08% OR MORE BY WEIGHT OF
21 ALCOHOL IN HIS OR HER BLOOD AT THE TIME OF HUNTING OR
22 TAKING OF GAME, FURBEARERS OR WILDLIFE OR THE AIDING,
23 ABETTING, ASSISTING OR CONSPIRING TO HUNT OR TAKE GAME,
24 FURBEARERS OR WILDLIFE IF THE AMOUNT OF ALCOHOL BY WEIGHT
25 IN THE BLOOD OF THE PERSON IS EQUAL TO OR GREATER THAN
26 [0.10%] 0.08% AT THE TIME A CHEMICAL TEST IS PERFORMED ON
27 A SAMPLE OF THE PERSON'S BREATH, BLOOD OR URINE; OR

28 * * *

29 (B) PENALTY.--

30 (1) A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL

1 BE A SUMMARY OFFENSE IF THE AMOUNT OF ALCOHOL BY WEIGHT IN
2 THE BLOOD OF THE INDIVIDUAL IS AT LEAST 0.08% BUT LESS THAN
3 0.10%.

4 (2) A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL
5 BE A MISDEMEANOR OF THE THIRD DEGREE IF THE AMOUNT OF ALCOHOL
6 BY WEIGHT IN THE BLOOD OF THE INDIVIDUAL IS AT LEAST 0.10%.

7 (3) IN ADDITION TO ANY PENALTY, THE VIOLATOR SHALL BE
8 DENIED THE RIGHT TO HUNT OR TRAP IN THIS COMMONWEALTH, WITH
9 OR WITHOUT A LICENSE, FOR A PERIOD OF ONE YEAR.

10 * * *

11 § 2502. CHEMICAL TEST TO DETERMINE AMOUNT OF ALCOHOL.

12 * * *

13 (D) PRESUMPTIONS FROM AMOUNT OF ALCOHOL.--IF CHEMICAL
14 ANALYSIS OF A PERSON'S BREATH, BLOOD OR URINE SHOWS:

15 * * *

16 (2) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF
17 THE PERSON TESTED IS IN EXCESS OF 0.05% BUT LESS THAN [0.10%]
18 0.08%, THIS FACT SHALL NOT GIVE RISE TO ANY PRESUMPTION THAT
19 THE PERSON TESTED WAS OR WAS NOT UNDER THE INFLUENCE OF
20 ALCOHOL, BUT THIS FACT MAY BE CONSIDERED WITH OTHER COMPETENT
21 EVIDENCE IN DETERMINING WHETHER THE PERSON WAS OR WAS NOT
22 UNDER THE INFLUENCE OF ALCOHOL.

23 (3) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF
24 THE PERSON TESTED IS [0.10%] 0.08% OR MORE, IT SHALL BE
25 PRESUMED THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF
26 ALCOHOL.

27 * * *

28 SECTION 5. SECTIONS 933(A)(1)(II), 1515(A)(5), 1725.3(A),
29 3571(B)(4) AND 3573(B)(3) OF TITLE 42 ARE AMENDED TO READ:

30 § 933. APPEALS FROM GOVERNMENT AGENCIES.

1 (A) GENERAL RULE.--EXCEPT AS OTHERWISE PRESCRIBED BY ANY
2 GENERAL RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO
3 REASSIGNMENT OF MATTERS), EACH COURT OF COMMON PLEAS SHALL HAVE
4 JURISDICTION OF APPEALS FROM FINAL ORDERS OF GOVERNMENT AGENCIES
5 IN THE FOLLOWING CASES:

6 (1) APPEALS FROM COMMONWEALTH AGENCIES IN THE FOLLOWING
7 CASES:

8 * * *

9 (II) DETERMINATIONS OF THE DEPARTMENT OF
10 TRANSPORTATION APPEALABLE UNDER THE FOLLOWING PROVISIONS
11 OF TITLE 75 (RELATING TO VEHICLES):

12 SECTION 1377 (RELATING TO JUDICIAL REVIEW).

13 SECTION 1550 (RELATING TO JUDICIAL REVIEW).

14 SECTION 4724(B) (RELATING TO JUDICIAL REVIEW).

15 SECTION 7303(B) (RELATING TO JUDICIAL REVIEW).

16 SECTION 7503(B) (RELATING TO JUDICIAL REVIEW).

17 EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL RULES, THE
18 VENUE SHALL BE IN THE COUNTY OF THE PRINCIPAL PLACE OF
19 BUSINESS OF ANY SALVOR OR MESSENGER SERVICE, THE LOCATION
20 OF ANY INSPECTION STATION INVOLVED, THE COUNTY WHERE THE
21 ARREST FOR A VIOLATION OF 75 PA.C.S. § [3731] 3802
22 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
23 CONTROLLED SUBSTANCE) WAS MADE IN APPEALS INVOLVING THE
24 SUSPENSION OF OPERATING PRIVILEGES UNDER 75 PA.C.S. §
25 1547 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF
26 ALCOHOL OR CONTROLLED SUBSTANCE) OR THE RESIDENCE OF ANY
27 INDIVIDUAL APPELLANT WHERE THE VENUE IS NOT OTHERWISE
28 FIXED BY THIS SENTENCE. IN THE CASE OF A NONRESIDENT
29 INDIVIDUAL VENUE, EXCEPT AS OTHERWISE PRESCRIBED BY
30 GENERAL RULES, SHALL BE IN THE COUNTY IN WHICH THE

1 OFFENSE GIVING RISE TO THE RECALL, CANCELLATION,
2 SUSPENSION OR REVOCATION OF OPERATING PRIVILEGES
3 OCCURRED.

4 * * *

5 § 1515. JURISDICTION AND VENUE.

6 (A) JURISDICTION.--EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL
7 RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO REASSIGNMENT
8 OF MATTERS), DISTRICT JUSTICES SHALL, UNDER PROCEDURES
9 PRESCRIBED BY GENERAL RULE, HAVE JURISDICTION OF ALL OF THE
10 FOLLOWING MATTERS:

11 * * *

12 (5) OFFENSES UNDER 75 PA.C.S. § [3731] 3802 (RELATING TO
13 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE),
14 IF THE FOLLOWING CRITERIA ARE MET:

15 (I) THE OFFENSE IS THE FIRST OFFENSE BY THE
16 DEFENDANT UNDER SUCH PROVISION IN THIS COMMONWEALTH.

17 (II) NO PERSONAL INJURY (OTHER THAN TO THE DEFENDANT
18 [OR THE IMMEDIATE FAMILY OF THE DEFENDANT]) RESULTED FROM
19 THE OFFENSE.

20 (III) THE DEFENDANT PLEADS GUILTY.

21 (IV) NO PROPERTY DAMAGE IN EXCESS OF \$500 OTHER THAN
22 TO THE DEFENDANT'S PROPERTY RESULTED FROM THE VIOLATION.

23 (V) THE DEFENDANT IS NOT SUBJECT TO THE PROVISIONS
24 OF CHAPTER 63 (RELATING TO JUVENILE MATTERS).

25 (VI) THE ARRESTING AUTHORITY SHALL CAUSE TO BE
26 TRANSMITTED A COPY OF THE CHARGE OF ANY VIOLATION OF 75
27 PA.C.S. § [3731] 3802 TO THE OFFICE OF THE CLERK OF THE
28 COURT OF COMMON PLEAS WITHIN FIVE DAYS AFTER THE
29 PRELIMINARY ARRAIGNMENT.

30 IN DETERMINING THAT THE ABOVE CRITERIA ARE MET THE DISTRICT

1 JUSTICE SHALL RELY ON THE CERTIFICATION OF THE ARRESTING
2 AUTHORITY. CERTIFICATION THAT THE CRITERIA ARE MET NEED NOT
3 BE IN WRITING. WITHIN TEN DAYS AFTER THE DISPOSITION, THE
4 DISTRICT JUSTICE SHALL CERTIFY THE DISPOSITION TO THE OFFICE
5 OF THE CLERK OF THE COURT OF COMMON PLEAS IN WRITING.

6 * * *

7 § 1725.3. CRIMINAL LABORATORY USER FEE.

8 (A) IMPOSITION.--A PERSON WHO IS PLACED ON PROBATION WITHOUT
9 VERDICT PURSUANT TO SECTION 17 OF THE ACT OF APRIL 14, 1972
10 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
11 DEVICE AND COSMETIC ACT, OR WHO RECEIVES ACCELERATED
12 REHABILITATIVE DISPOSITION OR WHO PLEADS GUILTY TO OR NOLO
13 CONTENDERE TO OR WHO IS CONVICTED OF A CRIME AS DEFINED IN 18
14 PA.C.S. § 106 (RELATING TO CLASSES OF OFFENSES) OR 75 PA.C.S. §
15 [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
16 CONTROLLED SUBSTANCE) OR 3735 (RELATING TO HOMICIDE BY VEHICLE
17 WHILE DRIVING UNDER INFLUENCE) OR A VIOLATION OF THE CONTROLLED
18 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT SHALL, IN ADDITION TO
19 ANY FINES, PENALTIES OR COSTS, IN EVERY CASE WHERE LABORATORY
20 SERVICES WERE REQUIRED TO PROSECUTE THE CRIME OR VIOLATION, BE
21 SENTENCED TO PAY A CRIMINAL LABORATORY USER FEE WHICH SHALL
22 INCLUDE, BUT NOT BE LIMITED TO, THE COST OF SENDING A LABORATORY
23 TECHNICIAN TO COURT PROCEEDINGS.

24 * * *

25 § 3571. COMMONWEALTH PORTION OF FINES, ETC.

26 * * *

27 (B) VEHICLE OFFENSES.--

28 * * *

29 (4) WHEN PROSECUTION UNDER 75 PA.C.S. § [3731] 3802

30 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED

1 SUBSTANCE) IS THE RESULT OF STATE POLICE ACTION, 50% OF ALL
2 FINES, FORFEITED RECOGNIZANCES AND OTHER FORFEITURES IMPOSED,
3 LOST OR FORFEITED SHALL BE PAYABLE TO THE COMMONWEALTH, FOR
4 CREDIT TO THE MOTOR LICENSE FUND, AND 50% SHALL BE PAYABLE TO
5 THE COUNTY WHICH SHALL BE FURTHER DIVIDED AS FOLLOWS:

6 (I) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE
7 ALLOCATED TO THE APPROPRIATE COUNTY AUTHORITY WHICH
8 IMPLEMENTS THE COUNTY DRUG AND ALCOHOL PROGRAM TO BE USED
9 SOLELY FOR THE PURPOSES OF AIDING PROGRAMS PROMOTING DRUG
10 ABUSE AND ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND
11 RESEARCH. PROGRAMS UNDER THIS SUBPARAGRAPH INCLUDE
12 PROJECT DARE (DRUG AND ALCOHOL RESISTANCE EDUCATION) AND
13 MOTHERS AGAINST DRUNK DRIVING VICTIM IMPACT PANELS.

14 (II) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE
15 USED FOR EXPENDITURES INCURRED FOR COUNTY JAILS, PRISONS,
16 WORKHOUSES AND DETENTION CENTERS.

17 * * *

18 § 3573. MUNICIPAL CORPORATION PORTION OF FINES, ETC.

19 * * *

20 (B) VEHICLE OFFENSES.--

21 * * *

22 (3) WHEN PROSECUTION UNDER 75 PA.C.S. § [3731] 3802
23 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
24 SUBSTANCE) IS THE RESULT OF LOCAL POLICE ACTION, 50% OF ALL
25 FINES, FORFEITED RECOGNIZANCES AND OTHER FORFEITURES IMPOSED,
26 LOST OR FORFEITED SHALL BE PAYABLE TO THE MUNICIPAL
27 CORPORATION UNDER WHICH THE LOCAL POLICE ARE ORGANIZED, AND
28 50% SHALL BE PAYABLE TO THE COUNTY WHICH SHALL BE FURTHER
29 DIVIDED AS FOLLOWS:

30 (I) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE

1 ALLOCATED TO THE APPROPRIATE COUNTY AUTHORITY WHICH
2 IMPLEMENTS THE COUNTY DRUG AND ALCOHOL PROGRAM TO BE USED
3 SOLELY FOR THE PURPOSES OF AIDING PROGRAMS PROMOTING DRUG
4 ABUSE AND ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND
5 RESEARCH. PROGRAMS UNDER THIS SUBPARAGRAPH INCLUDE
6 PROJECT DARE (DRUG AND ALCOHOL RESISTANCE EDUCATION) AND
7 MOTHERS AGAINST DRUNK DRIVING VICTIM IMPACT PANELS.

8 (II) FIFTY PERCENT OF THE MONEYS RECEIVED SHALL BE
9 USED FOR EXPENDITURES INCURRED FOR COUNTY JAILS, PRISONS,
10 WORKHOUSES AND DETENTION CENTERS.

11 * * *

12 SECTION 6. CHAPTER 70 OF TITLE 42 IS REPEALED.

13 SECTION 7. SECTION 9763(C) OF TITLE 42 IS AMENDED TO READ:

14 § 9763. SENTENCE OF INTERMEDIATE PUNISHMENT.

15 * * *

16 (C) RESTRICTION.--

17 (1) A DEFENDANT [CONVICTED UNDER] SUBJECT TO 75 PA.C.S.
18 § [3731(E) (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
19 CONTROLLED SUBSTANCE)] 3804 (RELATING TO PENALTIES) MAY ONLY
20 BE SENTENCED TO INTERMEDIATE PUNISHMENT:

21 [(1) IN A RESIDENTIAL INPATIENT PROGRAM OR IN A
22 RESIDENTIAL REHABILITATIVE CENTER; OR

23 (2) BY HOUSE ARREST OR ELECTRONIC SURVEILLANCE COMBINED
24 WITH DRUG AND ALCOHOL TREATMENT.]

25 (I) FOR A FIRST, SECOND OR THIRD OFFENSE UNDER 75
26 PA.C.S. CH. 38 (RELATING TO DRIVING WHILE IMPAIRED); AND

27 (II) AFTER UNDERGOING AN ASSESSMENT UNDER 75 PA.C.S.
28 § 3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS).

29 (2) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF DRUG
30 AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY BE SENTENCED TO

1 INTERMEDIATE PUNISHMENT WHICH INCLUDES PARTICIPATION IN DRUG
2 AND ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C) (RELATING TO
3 MANDATORY SENTENCING). SUCH TREATMENT MAY BE COMBINED WITH
4 HOUSE ARREST WITH ELECTRONIC SURVEILLANCE OR A PARTIAL
5 CONFINEMENT PROGRAM, SUCH AS WORK RELEASE, A WORK CAMP OR A
6 HALFWAY FACILITY.

7 (3) IF THE DEFENDANT IS DETERMINED NOT TO BE IN NEED OF
8 DRUG AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY BE
9 SENTENCED TO INTERMEDIATE PUNISHMENT:

10 (I) BY HOUSE ARREST OR ELECTRONIC SURVEILLANCE;

11 (II) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK
12 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

13 (III) ANY COMBINATION OF THE PROGRAMS SET FORTH IN
14 THIS SUBSECTION.

15 * * *

16 SECTION 8. SECTION 9804(B)(3) OF TITLE 42 IS AMENDED AND THE
17 SUBSECTION IS AMENDED BY ADDING PARAGRAPHS TO READ:

18 § 9804. COUNTY INTERMEDIATE PUNISHMENT PROGRAMS.

19 * * *

20 (B) ELIGIBILITY.--

21 * * *

22 [(3) ANY PERSON RECEIVING A PENALTY IMPOSED PURSUANT TO
23 75 PA.C.S. § 1543(B) (RELATING TO DRIVING WHILE OPERATING
24 PRIVILEGE IS SUSPENDED OR REVOKED) OR 3731(E) (RELATING TO
25 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)
26 MAY ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT PROGRAM IN:

27 (I) A RESIDENTIAL INPATIENT PROGRAM OR A RESIDENTIAL
28 REHABILITATIVE CENTER;

29 (II) HOUSE ARREST AND ELECTRONIC SURVEILLANCE
30 COMBINED WITH DRUG AND ALCOHOL TREATMENT; OR

1 (III) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK
2 RELEASE, WORK CAMPS AND HALFWAY FACILITIES, COMBINED WITH
3 DRUG AND ALCOHOL TREATMENT.]

4 (4) (I) ANY PERSON RECEIVING A PENALTY IMPOSED PURSUANT
5 TO 75 PA.C.S. § 1543(B) (RELATING TO DRIVING WHILE
6 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED) OR 3804
7 (RELATING TO PENALTIES) SHALL UNDERGO AN ASSESSMENT UNDER
8 75 PA.C.S. § 3814 (RELATING TO DRUG AND ALCOHOL
9 ASSESSMENTS).

10 (II) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF
11 DRUG AND ALCOHOL TREATMENT, A SENTENCE TO INTERMEDIATE
12 PUNISHMENT SHALL INCLUDE PARTICIPATION IN DRUG AND
13 ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C) (RELATING TO
14 MANDATORY SENTENCING). SUCH TREATMENT MAY BE COMBINED
15 WITH HOUSE ARREST WITH ELECTRONIC SURVEILLANCE OR A
16 PARTIAL CONFINEMENT PROGRAM, SUCH AS WORK RELEASE, A WORK
17 CAMP OR A HALFWAY FACILITY.

18 (III) IF THE DEFENDANT IS DETERMINED NOT TO BE IN
19 NEED OF DRUG AND ALCOHOL TREATMENT, THE DEFENDANT MAY
20 ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT PROGRAM IN:

21 (A) HOUSE ARREST AND ELECTRONIC SURVEILLANCE;

22 (B) PARTIAL CONFINEMENT PROGRAMS, SUCH AS WORK
23 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

24 (C) ANY COMBINATION OF THE PROGRAMS SET FORTH IN
25 THIS PARAGRAPH.

26 (5) A DEFENDANT SUBJECT TO 75 PA.C.S § 3804 (RELATING TO
27 PENALTIES) MAY ONLY BE SENTENCED TO INTERMEDIATE PUNISHMENT
28 FOR A FIRST, SECOND OR THIRD OFFENSE UNDER 75 PA.C.S. CH. 38
29 (RELATING TO DRIVING WHILE IMPAIRED).

30 SECTION 9. SECTIONS 1516(C) AND (D) AND 1532(B)(3) OF TITLE

1 75 ARE AMENDED TO READ:

2 § 1516. DEPARTMENT RECORDS.

3 * * *

4 (C) DISMISSAL OF CHARGES FOR VIOLATIONS.--IF A CHARGE FOR
5 VIOLATION OF ANY OF THE PROVISIONS OF THIS TITLE AGAINST ANY
6 PERSON IS DISMISSED WHERE THERE HAVE BEEN NO PRIOR CONVICTIONS
7 BY ANY COURT OF COMPETENT JURISDICTION, NO RECORD OF THE CHARGE
8 AND DISMISSAL SHALL BE INCLUDED IN THE DRIVING RECORD OF THE
9 PERSON. IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED OF THE
10 CHARGE AND SUSPENSION WAS IMPOSED BY THE DEPARTMENT, WHICH
11 SUSPENSION WAS EITHER PARTIALLY OR FULLY SERVED, THE DEPARTMENT
12 MAY KEEP A RECORD OF THE OFFENSE FOR THE PURPOSE OF SHOWING THE
13 SUSPENSION WAS IMPOSED AGAINST THE PERSON[.], BUT THE OFFENSE
14 SHALL NOT BE USED FOR THE PURPOSE OF CALCULATING THE REQUISITE
15 NUMBER OF OFFENSES UNDER SECTION 1542 (RELATING TO REVOCATION OF
16 HABITUAL OFFENDER'S LICENSE). IN ADDITION, THE DEPARTMENT MAY
17 KEEP RECORDS OF CHARGES THAT HAVE BEEN FILED WITH THE COURTS IN
18 ORDER TO DETERMINE A PERSON'S ELIGIBILITY FOR A PROBATIONARY
19 LICENSE UNDER THE PROVISIONS OF SECTION 1554(B)(3) (RELATING TO
20 PROBATIONARY LICENSE). ALL RECORDS MAINTAINED PURSUANT TO THIS
21 SUBSECTION SHALL BE MAINTAINED FOR ADMINISTRATIVE AND LAW
22 ENFORCEMENT USE ONLY AND SHALL NOT BE RELEASED FOR ANY OTHER
23 PURPOSE.

24 (D) UPDATING DRIVING RECORD.--DRIVERS WISHING TO HAVE THEIR
25 RECORD REVIEWED BY THE DEPARTMENT MAY MAKE SUCH A REQUEST IN
26 ORDER THAT THE RECORD BE BROUGHT UP TO DATE. IN UPDATING
27 RECORDS, THE DEPARTMENT SHALL INCLUDE RECALCULATION OF
28 SUSPENSION OR REVOCATION SEGMENTS AND THE ASSIGNMENT AND
29 CREDITING OF ANY SUSPENSION OR REVOCATION TIME PREVIOUSLY
30 ASSIGNED OR CREDITED TOWARD A SUSPENSION OR REVOCATION WHICH

1 RESULTED FROM A CONVICTION WHICH HAS BEEN VACATED, OVERTURNED,
2 DISMISSED OR WITHDRAWN. ANY FULLY OR PARTIALLY SERVED SUSPENSION
3 OR REVOCATION TIME MAY ONLY BE REASSIGNED OR CREDITED TOWARD A
4 SUSPENSION OR REVOCATION SEGMENT PROCESSED ON THE DRIVER'S
5 RECORD AS OF THE ACTUAL COMMENCEMENT DATE OF THE FULLY OR
6 PARTIALLY SERVED SUSPENSION OR REVOCATION TIME.

7 § 1532. SUSPENSION OF OPERATING PRIVILEGE.

8 * * *

9 (B) SUSPENSION.--

10 * * *

11 (3) THE DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE
12 OF ANY DRIVER FOR 12 MONTHS UPON RECEIVING A CERTIFIED RECORD
13 OF THE DRIVER'S CONVICTION OF SECTION [3731 (RELATING TO
14 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)
15 OR] 3733 (RELATING TO FLEEING OR ATTEMPTING TO ELUDE POLICE
16 OFFICER)[,] OR A SUBSTANTIALLY SIMILAR [OFFENSES] OFFENSE
17 REPORTED TO THE DEPARTMENT UNDER ARTICLE III OF SECTION 1581
18 (RELATING TO DRIVER'S LICENSE COMPACT), OR AN ADJUDICATION OF
19 DELINQUENCY BASED ON SECTION [3731 OR] 3733. THE DEPARTMENT
20 SHALL SUSPEND THE OPERATING PRIVILEGE OF ANY DRIVER FOR SIX
21 MONTHS UPON RECEIVING A CERTIFIED RECORD OF A CONSENT DECREE
22 GRANTED UNDER 42 PA.C.S. CH. 63 (RELATING TO JUVENILE
23 MATTERS) BASED ON SECTION [3731 OR] 3733.

24 * * *

25 SECTION 10. SECTION 1534(B) OF TITLE 75 IS AMENDED AND THE
26 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

27 § 1534. NOTICE OF ACCEPTANCE OF ACCELERATED REHABILITATIVE
28 DISPOSITION.

29 * * *

30 (B) EXCEPTION.--IF A PERSON IS ARRESTED FOR ANY OFFENSE

1 ENUMERATED IN SECTION [3731] 3802 (RELATING TO DRIVING UNDER
2 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND IS OFFERED AND
3 ACCEPTS ACCELERATED REHABILITATIVE DISPOSITION UNDER GENERAL
4 RULES, THE COURT SHALL PROMPTLY NOTIFY THE DEPARTMENT. THE
5 DEPARTMENT SHALL MAINTAIN A RECORD OF THE ACCEPTANCE OF
6 ACCELERATED REHABILITATIVE DISPOSITION FOR A PERIOD OF [SEVEN]
7 TEN YEARS FROM THE DATE OF NOTIFICATION. THIS RECORD SHALL NOT
8 BE EXPUNGED [BY ORDER OF COURT.] PRIOR TO THE EXPIRATION OF THE
9 TEN-YEAR PERIOD.

10 (C) EXPUNGEMENT.--IMMEDIATELY FOLLOWING THE EXPIRATION OF
11 THE TEN-YEAR PERIOD, THE DEPARTMENT SHALL EXPUNGE THE RECORD OF
12 THE ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION. THE
13 DEPARTMENT SHALL NOT REQUIRE AN ORDER OF COURT TO EXPUNGE THE
14 RECORD.

15 (D) EXCEPTIONS TO EXPUNGEMENT.--THE DEPARTMENT SHALL NOT BE
16 REQUIRED TO EXPUNGE THE RECORD OF ACCEPTANCE OF ACCELERATED
17 REHABILITATIVE DISPOSITION IF:

18 (1) DURING THE TEN-YEAR PERIOD, THE DEPARTMENT REVOKES
19 THE OPERATING PRIVILEGES OF A PERSON PURSUANT TO SECTION 1542
20 (RELATING TO REVOCATION OF HABITUAL OFFENDER'S LICENSE); OR

21 (2) THE PERSON WAS A COMMERCIAL DRIVER AT THE TIME OF
22 THE VIOLATION CAUSING THE DISPOSITION.

23 SECTION 11. SECTIONS 1541(A.1) AND (D), 1542(B), 1543(B) AND
24 1547(B)(1), (C), (D), (E) AND (I) OF TITLE 75 ARE AMENDED TO
25 READ:

26 § 1541. PERIOD OF DISQUALIFICATION, REVOCATION OR SUSPENSION OF
27 OPERATING PRIVILEGE.

28 * * *

29 (A.1) CREDIT TOWARD SERVING PERIOD OF SUSPENSION FOR CERTAIN
30 VIOLATIONS.--CREDIT TOWARD SERVING THE PERIOD OF SUSPENSION OR

1 REVOCATION IMPOSED FOR SECTIONS [3731 (RELATING TO DRIVING UNDER
2 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE),] 3732 (RELATING
3 TO HOMICIDE BY VEHICLE), 3735 (RELATING TO HOMICIDE BY VEHICLE
4 WHILE DRIVING UNDER THE INFLUENCE) [AND], 3735.1 (RELATING TO
5 AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE INFLUENCE)
6 AND 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
7 CONTROLLED SUBSTANCE) SHALL NOT COMMENCE UNTIL THE DATE OF THE
8 PERSON'S RELEASE FROM PRISON.

9 * * *

10 (D) CONTINUED SUSPENSION OF OPERATING PRIVILEGE.--A
11 DEFENDANT ORDERED BY THE COURT UNDER SECTION [1548] 3816
12 (RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE
13 OFFENDERS), AS THE RESULT OF A CONVICTION OR ACCELERATED
14 REHABILITATIVE DISPOSITION OF A VIOLATION OF SECTION [3731
15 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
16 SUBSTANCE)] 3802, TO ATTEND A TREATMENT PROGRAM FOR ALCOHOL OR
17 DRUG ADDICTION MUST SUCCESSFULLY COMPLETE ALL REQUIREMENTS OF
18 THE TREATMENT PROGRAM ORDERED BY THE COURT BEFORE THE
19 DEFENDANT'S OPERATING PRIVILEGE MAY BE RESTORED. SUCCESSFUL
20 COMPLETION OF A TREATMENT PROGRAM INCLUDES THE PAYMENT OF ALL
21 COURT-IMPOSED FINES AND COSTS, AS WELL AS FEES TO BE PAID TO THE
22 TREATMENT PROGRAM BY THE DEFENDANT. IF A DEFENDANT FAILS TO
23 SUCCESSFULLY COMPLETE THE REQUIREMENTS OF A TREATMENT PROGRAM,
24 THE SUSPENSION SHALL REMAIN IN EFFECT UNTIL THE DEFENDANT
25 COMPLETES THE PROGRAM AND IS OTHERWISE ELIGIBLE FOR RESTORATION
26 OF HIS OPERATING PRIVILEGE. THE TREATMENT AGENCY SHALL
27 IMMEDIATELY NOTIFY THE COURT OF SUCCESSFUL COMPLETION OF THE
28 TREATMENT PROGRAM. THE FINAL DECISION AS TO WHETHER A DEFENDANT
29 HAS SUCCESSFULLY COMPLETED THE TREATMENT PROGRAM RESTS WITH THE
30 COURT.

1 § 1542. REVOCATION OF HABITUAL OFFENDER'S LICENSE.

2 * * *

3 (B) OFFENSES ENUMERATED.--THREE CONVICTIONS ARISING FROM
4 SEPARATE ACTS OF ANY ONE OR MORE OF THE FOLLOWING OFFENSES
5 COMMITTED BY ANY PERSON SHALL RESULT IN SUCH PERSON BEING
6 DESIGNATED AS A HABITUAL OFFENDER:

7 (1) ANY VIOLATION OF SUBCHAPTER B OF CHAPTER 37
8 (RELATING TO SERIOUS TRAFFIC OFFENSES).

9 (1.1) ANY VIOLATION OF CHAPTER 38 (RELATING TO DRIVING
10 WHILE IMPAIRED).

11 (2) ANY VIOLATION OF SECTION 3367 (RELATING TO RACING ON
12 HIGHWAYS).

13 (3) ANY VIOLATION OF SECTION 3742 (RELATING TO ACCIDENTS
14 INVOLVING DEATH OR PERSONAL INJURY).

15 (3.1) ANY VIOLATION OF SECTION 3742.1 (RELATING TO
16 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY WHILE NOT
17 PROPERLY LICENSED).

18 (4) ANY VIOLATION OF SECTION 3743 (RELATING TO ACCIDENTS
19 INVOLVING DAMAGE TO ATTENDED VEHICLE OR PROPERTY).

20 * * *

21 § 1543. DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR
22 REVOKED.

23 * * *

24 (B) CERTAIN OFFENSES.--

25 (1) A PERSON WHO DRIVES A MOTOR VEHICLE ON A HIGHWAY OR
26 TRAFFICWAY OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S
27 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A CONDITION OF
28 ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION FOR A
29 VIOLATION OF SECTION [3731] 3802 (RELATING TO DRIVING UNDER
30 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) OR BECAUSE OF A

1 VIOLATION OF SECTION 1547(B)(1) (RELATING TO SUSPENSION FOR
2 REFUSAL) OR [3731] 3802 OR IS SUSPENDED UNDER SECTION 1581
3 (RELATING TO DRIVER'S LICENSE COMPACT) FOR AN OFFENSE
4 SUBSTANTIALLY SIMILAR TO A VIOLATION OF SECTION [3731] 3802
5 SHALL, UPON CONVICTION, BE GUILTY OF A SUMMARY OFFENSE AND
6 SHALL BE SENTENCED TO PAY A FINE OF [\$1,000] \$500 AND TO
7 UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN [90] 60
8 DAYS.

9 (1.1) (I) A PERSON WHO HAS AN AMOUNT OF ALCOHOL BY
10 WEIGHT IN HIS BLOOD THAT IS EQUAL TO OR GREATER THAN .02%
11 OR [IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE AS
12 DEFINED IN SECTION 1603 (RELATING TO DEFINITIONS)] WHO
13 HAS ANY AMOUNT OF A SCHEDULE I, II OR III CONTROLLED
14 SUBSTANCE, AS DEFINED IN THE ACT OF APRIL 14, 1972
15 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,
16 DRUG, DEVICE AND COSMETIC ACT, OR ITS METABOLITE, WHICH
17 HAS NOT BEEN MEDICALLY PRESCRIBED FOR THE INDIVIDUAL AND
18 WHO DRIVES A MOTOR VEHICLE ON ANY HIGHWAY OR TRAFFICWAY
19 OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S
20 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A
21 CONDITION OF ACCEPTANCE OF ACCELERATED REHABILITATIVE
22 DISPOSITION FOR A VIOLATION OF SECTION [3731] 3802 OR
23 BECAUSE OF A VIOLATION OF SECTION 1547(B)(1) OR [3731]
24 3802 OR IS SUSPENDED UNDER SECTION 1581 FOR AN OFFENSE
25 SUBSTANTIALLY SIMILAR TO A VIOLATION OF SECTION [3731]
26 3802 SHALL, UPON A FIRST CONVICTION, BE GUILTY OF A
27 SUMMARY OFFENSE AND SHALL BE SENTENCED TO PAY A FINE OF
28 \$1,000 AND TO UNDERGO IMPRISONMENT FOR A PERIOD OF NOT
29 LESS THAN 90 DAYS.

30 (II) A SECOND VIOLATION OF THIS PARAGRAPH SHALL

1 CONSTITUTE A MISDEMEANOR OF THE THIRD DEGREE, AND UPON
2 CONVICTION THEREOF THE PERSON SHALL BE SENTENCED TO PAY A
3 FINE OF \$2,500 AND TO UNDERGO IMPRISONMENT FOR NOT LESS
4 THAN SIX MONTHS.

5 (III) A THIRD OR SUBSEQUENT VIOLATION OF THIS
6 PARAGRAPH SHALL CONSTITUTE A MISDEMEANOR OF THE FIRST
7 DEGREE, AND UPON CONVICTION THEREOF THE PERSON SHALL BE
8 SENTENCED TO PAY A FINE OF \$5,000 AND TO UNDERGO
9 IMPRISONMENT FOR NOT LESS THAN TWO YEARS.

10 (2) THIS SUBSECTION SHALL APPLY TO ANY PERSON AGAINST
11 WHOM ONE OF THESE SUSPENSIONS HAS BEEN IMPOSED WHETHER THE
12 PERSON IS CURRENTLY SERVING THIS SUSPENSION OR WHETHER THE
13 EFFECTIVE DATE OF SUSPENSION HAS BEEN DEFERRED UNDER ANY OF
14 THE PROVISIONS OF SECTION 1544 (RELATING TO ADDITIONAL PERIOD
15 OF REVOCATION OR SUSPENSION). THIS PROVISION SHALL ALSO APPLY
16 UNTIL THE PERSON HAS HAD THE OPERATING PRIVILEGE RESTORED.
17 THIS SUBSECTION SHALL ALSO APPLY TO ANY REVOCATION IMPOSED
18 PURSUANT TO SECTION 1542 (RELATING TO REVOCATION OF HABITUAL
19 OFFENDER'S LICENSE) IF ANY OF THE ENUMERATED OFFENSES WAS FOR
20 A VIOLATION OF SECTION [3731] 3802 OR FOR AN OUT-OF-STATE
21 OFFENSE THAT IS SUBSTANTIALLY SIMILAR TO A VIOLATION OF
22 SECTION [3731] 3802 FOR WHICH A REVOCATION IS IMPOSED UNDER
23 SECTION 1581.

24 * * *

25 § 1547. CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR
26 CONTROLLED SUBSTANCE.

27 * * *

28 (B) SUSPENSION FOR REFUSAL.--

29 (1) IF ANY PERSON PLACED UNDER ARREST FOR A VIOLATION OF
30 SECTION [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF

1 ALCOHOL OR CONTROLLED SUBSTANCE) IS REQUESTED TO SUBMIT TO
2 CHEMICAL TESTING AND REFUSES TO DO SO, THE TESTING SHALL NOT
3 BE CONDUCTED BUT UPON NOTICE BY THE POLICE OFFICER, THE
4 DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE OF THE
5 PERSON [FOR A PERIOD OF 12 MONTHS.] AS FOLLOWS:

6 (I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (II), FOR A
7 PERIOD OF 12 MONTHS.

8 (II) FOR A PERIOD OF 24 MONTHS IF ANY OF THE
9 FOLLOWING APPLY:

10 (A) THE PERSON'S OPERATING PRIVILEGES HAVE
11 PREVIOUSLY BEEN SUSPENDED UNDER THIS SUBSECTION.

12 (B) THE PERSON HAS, PRIOR TO THE REFUSAL UNDER
13 THIS PARAGRAPH, BEEN SENTENCED FOR:

14 (I) AN OFFENSE UNDER FORMER SECTION 3731;

15 (II) AN OFFENSE UNDER SECTION 3802 (RELATING
16 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
17 CONTROLLED SUBSTANCE);

18 (III) AN OFFENSE EQUIVALENT TO AN OFFENSE
19 UNDER SUBCLAUSE (I) OR (II); OR

20 (IV) A COMBINATION OF THE OFFENSES SET FORTH
21 IN THIS CLAUSE.

22 * * *

23 (C) TEST RESULTS ADMISSIBLE IN EVIDENCE.--IN ANY SUMMARY
24 PROCEEDING OR CRIMINAL PROCEEDING IN WHICH THE DEFENDANT IS
25 CHARGED WITH A VIOLATION OF SECTION [3731] 3802 OR ANY OTHER
26 VIOLATION OF THIS TITLE ARISING OUT OF THE SAME ACTION, THE
27 AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE IN THE DEFENDANT'S
28 BLOOD, AS SHOWN BY CHEMICAL TESTING OF THE PERSON'S BREATH,
29 BLOOD OR URINE, WHICH TESTS WERE CONDUCTED BY QUALIFIED PERSONS
30 USING APPROVED EQUIPMENT, SHALL BE ADMISSIBLE IN EVIDENCE.

1 (1) CHEMICAL TESTS OF BREATH SHALL BE PERFORMED ON
2 DEVICES APPROVED BY THE DEPARTMENT OF HEALTH USING PROCEDURES
3 PRESCRIBED JOINTLY BY REGULATIONS OF THE DEPARTMENTS OF
4 HEALTH AND TRANSPORTATION. DEVICES SHALL HAVE BEEN CALIBRATED
5 AND TESTED FOR ACCURACY WITHIN A PERIOD OF TIME AND IN A
6 MANNER SPECIFIED BY REGULATIONS OF THE DEPARTMENTS OF HEALTH
7 AND TRANSPORTATION. FOR PURPOSES OF BREATH TESTING, A
8 QUALIFIED PERSON MEANS A PERSON WHO HAS FULFILLED THE
9 TRAINING REQUIREMENT IN THE USE OF THE EQUIPMENT IN A
10 TRAINING PROGRAM APPROVED BY THE DEPARTMENTS OF HEALTH AND
11 TRANSPORTATION. A CERTIFICATE OR LOG SHOWING THAT A DEVICE
12 WAS CALIBRATED AND TESTED FOR ACCURACY AND THAT THE DEVICE
13 WAS ACCURATE SHALL BE PRESUMPTIVE EVIDENCE OF THOSE FACTS IN
14 EVERY PROCEEDING IN WHICH A VIOLATION OF THIS TITLE IS
15 CHARGED.

16 (2) CHEMICAL TESTS OF BLOOD OR URINE, IF CONDUCTED BY A
17 FACILITY LOCATED IN THIS COMMONWEALTH, SHALL BE PERFORMED BY
18 A CLINICAL LABORATORY LICENSED AND APPROVED BY THE DEPARTMENT
19 OF HEALTH FOR THIS PURPOSE USING PROCEDURES AND EQUIPMENT
20 PRESCRIBED BY THE DEPARTMENT OF HEALTH OR BY A PENNSYLVANIA
21 STATE POLICE CRIMINAL LABORATORY. FOR PURPOSES OF BLOOD AND
22 URINE TESTING, QUALIFIED PERSON MEANS AN INDIVIDUAL WHO IS
23 AUTHORIZED TO PERFORM THOSE CHEMICAL TESTS UNDER THE ACT OF
24 SEPTEMBER 26, 1951 (P.L.1539, NO.389), KNOWN AS THE CLINICAL
25 LABORATORY ACT.

26 (3) CHEMICAL TESTS OF BLOOD OR URINE, IF CONDUCTED BY A
27 FACILITY LOCATED OUTSIDE THIS COMMONWEALTH, SHALL BE
28 PERFORMED:

29 (I) BY A FACILITY LICENSED BY THE DEPARTMENT OF
30 HEALTH; OR

1 (II) BY A FACILITY LICENSED TO CONDUCT THE TESTS BY
2 THE STATE IN WHICH THE FACILITY IS LOCATED AND LICENSED
3 PURSUANT TO THE CLINICAL LABORATORY IMPROVEMENT
4 AMENDMENTS OF 1988 (PUBLIC LAW 100-578, 102 STAT. 2903).

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%, THIS FACT
18 SHALL NOT GIVE RISE TO ANY PRESUMPTION THAT THE ADULT WAS OR
19 WAS NOT UNDER THE INFLUENCE OF ALCOHOL, BUT THIS FACT MAY BE
20 CONSIDERED WITH OTHER COMPETENT EVIDENCE IN DETERMINING
21 WHETHER THE ADULT WAS OR WAS NOT UNDER THE INFLUENCE OF
22 ALCOHOL. THIS PROVISION SHALL NOT NEGATE THE PROVISIONS OF
23 SECTION 3731(I).

24 (3) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
25 OF:

26 (I) AN ADULT IS 0.10% 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 (E) REFUSAL ADMISSIBLE IN EVIDENCE.--IN ANY SUMMARY

1 PROCEEDING OR CRIMINAL PROCEEDING IN WHICH THE DEFENDANT IS
2 CHARGED WITH A VIOLATION OF SECTION [3731] 3802 OR ANY OTHER
3 VIOLATION OF THIS TITLE ARISING OUT OF THE SAME ACTION, THE FACT
4 THAT THE DEFENDANT REFUSED TO SUBMIT TO CHEMICAL TESTING AS
5 REQUIRED BY SUBSECTION (A) MAY BE INTRODUCED IN EVIDENCE ALONG
6 WITH OTHER TESTIMONY CONCERNING THE CIRCUMSTANCES OF THE
7 REFUSAL. NO PRESUMPTIONS SHALL ARISE FROM THIS EVIDENCE BUT IT
8 MAY BE CONSIDERED ALONG WITH OTHER FACTORS CONCERNING THE
9 CHARGE.

10 * * *

11 (I) REQUEST BY DRIVER FOR TEST.--ANY PERSON INVOLVED IN AN
12 ACCIDENT OR PLACED UNDER ARREST FOR A VIOLATION OF SECTION
13 [3731] 3802 MAY REQUEST A CHEMICAL TEST OF HIS BREATH, BLOOD OR
14 URINE. SUCH REQUESTS SHALL BE HONORED WHEN IT IS REASONABLY
15 PRACTICABLE TO DO SO.

16 * * *

17 SECTION 12. SECTION 1548 OF TITLE 75 IS REPEALED.

18 SECTION 13. SECTION 1552 OF TITLE 75 IS AMENDED TO READ:

19 § 1552. ACCELERATED REHABILITATIVE DISPOSITION.

20 THE COURT OF COMMON PLEAS IN EACH JUDICIAL DISTRICT AND THE
21 MUNICIPAL COURT OF PHILADELPHIA SHALL ESTABLISH AND IMPLEMENT A
22 PROGRAM FOR ACCELERATED REHABILITATIVE DISPOSITION FOR PERSONS
23 CHARGED WITH A VIOLATION OF SECTION [3731] 3802 (RELATING TO
24 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) IN
25 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER AND RULES ADOPTED
26 BY THE SUPREME COURT.

27 SECTION 14. SECTION 1553(D)(6), (8) AND (16), (E) AND (F)(1)
28 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO
29 READ:

30 § 1553. OCCUPATIONAL LIMITED LICENSE.

1 * * *

2 (D) UNAUTHORIZED ISSUANCE.--THE DEPARTMENT SHALL PROHIBIT
3 ISSUANCE OF AN OCCUPATIONAL LIMITED LICENSE TO:

4 * * *

5 (6) [ANY] EXCEPT AS SET FORTH IN SUBSECTION (D.1) OR
6 (D.2) ANY PERSON WHO HAS BEEN ADJUDICATED DELINQUENT OR
7 CONVICTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
8 CONTROLLED SUBSTANCE UNLESS THE SUSPENSION OR REVOCATION
9 IMPOSED FOR THAT CONVICTION HAS BEEN FULLY SERVED.

10 * * *

11 (8) [ANY] EXCEPT AS SET FORTH IN SUBSECTIONS (D.1) AND
12 (D.2), ANY PERSON WHO HAS BEEN GRANTED A CONSENT DECREE OR
13 ACCELERATED REHABILITATIVE DISPOSITION FOR DRIVING UNDER THE
14 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE AND WHOSE
15 LICENSE HAS BEEN SUSPENDED BY THE DEPARTMENT UNLESS THE
16 SUSPENSION IMPOSED HAS BEEN FULLY SERVED.

17 * * *

18 (16) [ANY] EXCEPT AS SET FORTH IN SUBSECTION (D.3), ANY
19 PERSON WHOSE OPERATING PRIVILEGE HAS BEEN SUSPENDED UNDER AN
20 INTERJURISDICTIONAL AGREEMENT AS PROVIDED FOR IN SECTION 6146
21 AS THE RESULT OF A CONVICTION OR ADJUDICATION IF THE
22 CONVICTION OR ADJUDICATION FOR AN EQUIVALENT OFFENSE IN THIS
23 COMMONWEALTH WOULD HAVE PROHIBITED THE ISSUANCE OF AN
24 OCCUPATIONAL LIMITED LICENSE.

25 * * *

26 (D.1) ADJUDICATION ELIGIBILITY.--AN INDIVIDUAL WHO HAS BEEN
27 ADJUDICATED DELINQUENT, CONVICTED, GRANTED A CONSENT DECREE OR
28 GRANTED ACCELERATED REHABILITATION DISPOSITION FOR DRIVING UNDER
29 THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE AND DOES NOT
30 HAVE A PRIOR OFFENSE AS DEFINED IN SECTION 3806(A) (RELATING TO

1 PRIOR OFFENSES) SHALL BE ELIGIBLE FOR AN OCCUPATIONAL LIMITED
2 LICENSE.

3 (D.2) SUSPENSION ELIGIBILITY.--

4 (1) AN INDIVIDUAL WHOSE LICENSE HAS BEEN SUSPENDED FOR A
5 PERIOD OF 24 MONTHS UNDER SECTION 1547(B)(1)(II) (RELATING TO
6 CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR CONTROLLED
7 SUBSTANCE) OR 3804(E)(2)(II) (RELATING TO PENALTIES) SHALL
8 NOT BE PROHIBITED FROM OBTAINING AN OCCUPATIONAL LIMITED
9 LICENSE UNDER THIS SECTION IF THE INDIVIDUAL:

10 (I) IS OTHERWISE ELIGIBLE FOR RESTORATION;

11 (II) HAS SERVED AT LEAST 12 MONTHS OF THE LICENSE
12 SUSPENSION;

13 (III) ONLY OPERATES A MOTOR VEHICLE EQUIPPED WITH AN
14 IGNITION INTERLOCK SYSTEM AS DEFINED IN SECTION 3801
15 (RELATING TO DEFINITIONS); AND

16 (IV) HAS CERTIFIED TO THE DEPARTMENT UNDER PARAGRAPH
17 (3).

18 (2) A PERIOD OF IGNITION INTERLOCK ACCEPTED UNDER THIS
19 SUBSECTION SHALL NOT COUNT TOWARDS THE ONE-YEAR MANDATORY
20 PERIOD OF IGNITION INTERLOCK IMPOSED UNDER SECTION 3805
21 (RELATING TO IGNITION INTERLOCK).

22 (3) IF AN INDIVIDUAL SEEKS AN OCCUPATIONAL LIMITED
23 LICENSE UNDER THIS SUBSECTION, THE DEPARTMENT SHALL REQUIRE
24 THAT EACH MOTOR VEHICLE OWNED OR REGISTERED TO THE PERSON HAS
25 BEEN EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM AS A
26 CONDITION OF ISSUING AN OCCUPATIONAL LIMITED LICENSE WITH AN
27 IGNITION INTERLOCK RESTRICTION.

28 (D.3) INTERJURISDICTIONAL SUSPENSIONS.--AN INDIVIDUAL WHOSE
29 OPERATING PRIVILEGE HAS BEEN SUSPENDED PURSUANT TO AN
30 INTERJURISDICTIONAL AGREEMENT UNDER SECTION 6146 AS THE RESULT

1 OF AN ADJUDICATION OR CONVICTION FOR DRIVING UNDER THE INFLUENCE
2 OF ALCOHOL OR CONTROLLED SUBSTANCE AND DOES NOT HAVE A PRIOR
3 OFFENSE AS DEFINED IN SECTION 3806(A) SHALL BE ELIGIBLE FOR AN
4 OCCUPATIONAL LIMITED LICENSE.

5 (E) OFFENSES COMMITTED DURING A PERIOD FOR WHICH AN
6 OCCUPATIONAL LIMITED LICENSE HAS BEEN ISSUED.--ANY DRIVER WHO
7 HAS BEEN ISSUED AN OCCUPATIONAL LIMITED LICENSE AND AS TO WHOM
8 THE DEPARTMENT RECEIVES A REPORT OF CONVICTION OF AN OFFENSE FOR
9 WHICH THE PENALTY IS A CANCELLATION, DISQUALIFICATION, RECALL,
10 SUSPENSION OR REVOCATION OF OPERATING PRIVILEGES OR A REPORT
11 UNDER SECTION 3815(C)(4) (RELATING TO MANDATORY SENTENCING)
12 SHALL HAVE THE OCCUPATIONAL LIMITED LICENSE RECALLED, AND THE
13 DRIVER SHALL SURRENDER THE LIMITED LICENSE TO THE DEPARTMENT OR
14 ITS AGENTS DESIGNATED UNDER THE AUTHORITY OF SECTION 1540.

15 (F) RESTRICTIONS.--A DRIVER WHO HAS BEEN ISSUED AN
16 OCCUPATIONAL LIMITED LICENSE SHALL OBSERVE THE FOLLOWING:

17 (1) THE DRIVER SHALL OPERATE A DESIGNATED VEHICLE ONLY
18 [BETWEEN]:

19 (I) BETWEEN THE DRIVER'S PLACE OF RESIDENCE AND
20 PLACE OF EMPLOYMENT OR STUDY AND AS NECESSARY IN THE
21 COURSE OF EMPLOYMENT OR CONDUCTING A BUSINESS OR PURSUING
22 A COURSE OF STUDY WHERE THE OPERATION OF A MOTOR VEHICLE
23 IS A REQUIREMENT OF EMPLOYMENT OR OF CONDUCTING A
24 BUSINESS OR OF PURSUING A COURSE OF STUDY.

25 (II) TO AND FROM A PLACE FOR SCHEDULED OR EMERGENCY
26 MEDICAL EXAMINATION OR TREATMENT. THIS SUBPARAGRAPH
27 INCLUDES TREATMENT REQUIRED UNDER CHAPTER 38 (RELATING TO
28 DRIVING WHILE IMPAIRED).

29 * * *

30 SECTION 15. SECTIONS 1554(F)(8), 1575(B), 1586, 1611(A)(1),

1 3101(B), 3326(C), 3327(E) AND 3716(A) ARE AMENDED TO READ:

2 § 1554. PROBATIONARY LICENSE.

3 * * *

4 (F) UNAUTHORIZED ISSUANCE.--THE DEPARTMENT SHALL NOT ISSUE A
5 PROBATIONARY LICENSE TO:

6 * * *

7 (8) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF
8 SECTION [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF
9 ALCOHOL OR CONTROLLED SUBSTANCE) WITHIN THE PRECEDING SEVEN
10 YEARS.

11 * * *

12 § 1575. PERMITTING VIOLATION OF TITLE.

13 * * *

14 (B) PENALTY.--ANY PERSON VIOLATING THE PROVISIONS OF
15 SUBSECTION (A) IS GUILTY OF A SUMMARY OFFENSE AND IS SUBJECT TO
16 THE SAME FINE AS THE DRIVER OF THE VEHICLE. IF THE DRIVER IS
17 CONVICTED UNDER SECTION [3731 (RELATING TO DRIVING UNDER
18 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) OR] 3735 (RELATING
19 TO HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE) OR 3802
20 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
21 SUBSTANCE), THE PERSON VIOLATING SUBSECTION (A) SHALL ALSO BE
22 SUBJECT TO SUSPENSION OR REVOCATION, AS APPLICABLE, UNDER
23 SECTIONS [1532 (RELATING TO REVOCATION OR SUSPENSION OF
24 OPERATING PRIVILEGE)] 3804(E) (RELATING TO PENALTIES) AND 1542
25 (RELATING TO REVOCATION OF HABITUAL OFFENDER'S LICENSE).

26 * * *

27 § 1586. DUTIES OF DEPARTMENT.

28 THE DEPARTMENT SHALL, FOR PURPOSES OF IMPOSING A SUSPENSION
29 OR REVOCATION UNDER ARTICLE IV OF THE COMPACT, TREAT REPORTS OF
30 CONVICTIONS RECEIVED FROM PARTY STATES THAT RELATE TO DRIVING,

1 OPERATING OR BEING IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE
2 IMPAIRED BY OR UNDER THE INFLUENCE OF ALCOHOL, INTOXICATING
3 LIQUOR, DRUGS, NARCOTICS, CONTROLLED SUBSTANCES OR OTHER
4 IMPAIRING OR INTOXICATING SUBSTANCE AS BEING SUBSTANTIALLY
5 SIMILAR TO SECTION [3731] 3802 (RELATING TO DRIVING UNDER THE
6 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE). THE FACT THAT THE
7 OFFENSE REPORTED TO THE DEPARTMENT BY A PARTY STATE MAY REQUIRE
8 A DIFFERENT DEGREE OF IMPAIRMENT OF A PERSON'S ABILITY TO
9 OPERATE, DRIVE OR CONTROL A VEHICLE THAN THAT REQUIRED TO
10 SUPPORT A CONVICTION FOR A VIOLATION OF SECTION [3731] 3802
11 SHALL NOT BE A BASIS FOR DETERMINING THAT THE PARTY STATE'S
12 OFFENSE IS NOT SUBSTANTIALLY SIMILAR TO SECTION [3731] 3802 FOR
13 PURPOSES OF ARTICLE IV OF THE COMPACT.

14 § 1611. DISQUALIFICATION.

15 (A) DISQUALIFICATION FOR FIRST VIOLATION OF CERTAIN
16 OFFENSES.--UPON RECEIPT OF A CERTIFIED COPY OF CONVICTION, THE
17 DEPARTMENT SHALL, IN ADDITION TO ANY OTHER PENALTIES IMPOSED
18 UNDER THIS TITLE, DISQUALIFY ANY PERSON FROM DRIVING A
19 COMMERCIAL MOTOR VEHICLE OR SCHOOL VEHICLE FOR A PERIOD OF ONE
20 YEAR FOR THE FIRST VIOLATION OF:

21 (1) SECTION [3731] 3802 (RELATING TO DRIVING UNDER THE
22 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE), WHERE THE
23 VIOLATION OCCURRED WHILE THE PERSON WAS OPERATING A
24 COMMERCIAL MOTOR VEHICLE OR SCHOOL VEHICLE;

25 * * *

26 § 3101. APPLICATION OF PART.

27 * * *

28 (B) SERIOUS TRAFFIC OFFENSES.--THE PROVISIONS OF SECTION
29 3345 (RELATING TO MEETING OR OVERTAKING SCHOOL BUS) [AND]
30 SUBCHAPTER B OF CHAPTER 37 (RELATING TO SERIOUS TRAFFIC

1 OFFENSES) AND CHAPTER 38 (RELATING TO DRIVING WHILE IMPAIRED)
2 SHALL APPLY UPON HIGHWAYS AND TRAFFICWAYS THROUGHOUT THIS
3 COMMONWEALTH.

4 § 3326. DUTY OF DRIVER IN CONSTRUCTION AND MAINTENANCE AREAS OR
5 ON HIGHWAY SAFETY CORRIDORS.

6 * * *

7 (C) FINES TO BE DOUBLED.-- FOR ANY OF THE FOLLOWING
8 VIOLATIONS, WHEN COMMITTED IN AN ACTIVE WORK ZONE MANNED BY
9 WORKERS ACTING IN THEIR OFFICIAL CAPACITY OR ON A HIGHWAY SAFETY
10 CORRIDOR DESIGNATED UNDER SECTION 6105.1 (RELATING TO
11 DESIGNATION OF HIGHWAY SAFETY CORRIDORS), THE FINE SHALL BE
12 DOUBLE THE USUAL AMOUNT:

13 SECTION 3102 (RELATING TO OBEDIENCE TO AUTHORIZED
14 PERSONS DIRECTING TRAFFIC).

15 SECTION 3111 (RELATING TO OBEDIENCE TO TRAFFIC-
16 CONTROL DEVICES).

17 SECTION 3112 (RELATING TO TRAFFIC-CONTROL SIGNALS).

18 SECTION 3114 (RELATING TO FLASHING SIGNALS).

19 SECTION 3302 (RELATING TO MEETING VEHICLE PROCEEDING
20 IN OPPOSITE DIRECTION).

21 SECTION 3303 (RELATING TO OVERTAKING VEHICLE ON THE
22 LEFT).

23 SECTION 3304 (RELATING TO OVERTAKING VEHICLE ON THE
24 RIGHT).

25 SECTION 3305 (RELATING TO LIMITATIONS ON OVERTAKING
26 ON THE LEFT).

27 SECTION 3306 (RELATING TO LIMITATIONS ON DRIVING ON
28 LEFT SIDE OF ROADWAY).

29 SECTION 3307 (RELATING TO NO-PASSING ZONES).

30 SECTION 3309 (RELATING TO DRIVING ON ROADWAYS LANED

1 FOR TRAFFIC).

2 SECTION 3310 (RELATING TO FOLLOWING TOO CLOSELY).

3 SECTION 3323 (RELATING TO STOP SIGNS AND YIELD
4 SIGNS).

5 SECTION 3326 (RELATING TO DUTY OF DRIVER IN
6 CONSTRUCTION AND MAINTENANCE AREAS).

7 SECTION 3361 (RELATING TO DRIVING VEHICLE AT SAFE
8 SPEED).

9 SECTION 3362 (RELATING TO MAXIMUM SPEED LIMITS).

10 SECTION 3702 (RELATING TO LIMITATIONS ON BACKING).

11 SECTION 3714 (RELATING TO CARELESS DRIVING).

12 SECTION 3715 (RELATING TO RESTRICTION ON ALCOHOLIC
13 BEVERAGES).

14 [SECTION 3731 (RELATING TO DRIVING UNDER INFLUENCE OF
15 ALCOHOL OR CONTROLLED SUBSTANCE).]

16 SECTION 3736 (RELATING TO RECKLESS DRIVING).

17 SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF
18 ALCOHOL OR CONTROLLED SUBSTANCE).

19 * * *

20 § 3327. DUTY OF DRIVER IN EMERGENCY RESPONSE AREAS.

21 * * *

22 (E) FINES TO BE DOUBLED.--IN ADDITION TO ANY PENALTY AS
23 PROVIDED IN SUBSECTION (B), THE FINE FOR ANY OF THE FOLLOWING
24 VIOLATIONS WHEN COMMITTED IN AN EMERGENCY RESPONSE AREA MANNED
25 BY EMERGENCY SERVICE RESPONDERS SHALL BE DOUBLE THE USUAL
26 AMOUNT:

27 SECTION 3102 (RELATING TO OBEDIENCE TO AUTHORIZED PERSONS
28 DIRECTING TRAFFIC).

29 SECTION 3111 (RELATING TO OBEDIENCE TO TRAFFIC-CONTROL
30 DEVICES).

1 SECTION 3114 (RELATING TO FLASHING SIGNALS).

2 SECTION 3302 (RELATING TO MEETING VEHICLE PROCEEDING IN
3 OPPOSITE DIRECTION).

4 SECTION 3303 (RELATING TO OVERTAKING VEHICLE ON THE
5 LEFT).

6 SECTION 3304 (RELATING TO OVERTAKING VEHICLE ON THE
7 RIGHT).

8 SECTION 3305 (RELATING TO LIMITATIONS ON OVERTAKING ON
9 THE LEFT).

10 SECTION 3306 (RELATING TO LIMITATIONS ON DRIVING ON LEFT
11 SIDE OF ROADWAY).

12 SECTION 3307 (RELATING TO NO-PASSING ZONES).

13 SECTION 3310 (RELATING TO FOLLOWING TOO CLOSELY).

14 SECTION 3312 (RELATING TO LIMITED ACCESS HIGHWAY
15 ENTRANCES AND EXITS).

16 SECTION 3323 (RELATING TO STOP SIGNS AND YIELD SIGNS).

17 SECTION 3325 (RELATING TO DUTY OF DRIVER ON APPROACH OF
18 EMERGENCY VEHICLE).

19 SECTION 3361 (RELATING TO DRIVING VEHICLE AT SAFE SPEED).

20 SECTION 3707 (RELATING TO DRIVING OR STOPPING CLOSE TO
21 FIRE APPARATUS).

22 SECTION 3710 (RELATING TO STOPPING AT INTERSECTION OR
23 CROSSING TO PREVENT OBSTRUCTION).

24 SECTION 3714 (RELATING TO CARELESS DRIVING).

25 SECTION 3715.1 (RELATING TO RESTRICTION ON ALCOHOLIC
26 BEVERAGES).

27 [SECTION 3731 (RELATING TO DRIVING UNDER INFLUENCE OF
28 ALCOHOL OR CONTROLLED SUBSTANCE).]

29 SECTION 3736 (RELATING TO RECKLESS DRIVING).

30 SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF

1 ALCOHOL OR CONTROLLED SUBSTANCE).

2 * * *

3 § 3716. ACCIDENTS INVOLVING OVERTURNED VEHICLES.

4 (A) SPEEDING, CARELESS DRIVING, ETC.--IF A COMMERCIAL MOTOR
5 VEHICLE OVERTURNS IN AN ACCIDENT RESULTING FROM A VIOLATION OF
6 SECTION 3361 (RELATING TO DRIVING VEHICLE AT SAFE SPEED), 3362
7 (RELATING TO MAXIMUM SPEED LIMITS), 3714 (RELATING TO CARELESS
8 DRIVING) OR [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF
9 ALCOHOL OR CONTROLLED SUBSTANCE), THE OPERATOR OF THE VEHICLE
10 SHALL, UPON CONVICTION OF ANY OF THE AFOREMENTIONED OFFENSES, BE
11 SENTENCED TO PAY A FINE OF \$2,000, IN ADDITION TO ANY OTHER
12 PENALTY AUTHORIZED BY LAW.

13 * * *

14 SECTION 16. SECTION 3731 OF TITLE 75 IS REPEALED.

15 SECTION 17. SECTIONS 3732(A), 3735(A), 3735.1(A) AND 3755(A)
16 OF TITLE 75 ARE AMENDED TO READ:

17 § 3732. HOMICIDE BY VEHICLE.

18 (A) OFFENSE.--ANY PERSON WHO RECKLESSLY OR WITH GROSS
19 NEGLIGENCE CAUSES THE DEATH OF ANOTHER PERSON WHILE ENGAGED IN
20 THE VIOLATION OF ANY LAW OF THIS COMMONWEALTH OR MUNICIPAL
21 ORDINANCE APPLYING TO THE OPERATION OR USE OF A VEHICLE OR TO
22 THE REGULATION OF TRAFFIC EXCEPT SECTION [3731] 3802 (RELATING
23 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)
24 IS GUILTY OF HOMICIDE BY VEHICLE, A FELONY OF THE THIRD DEGREE,
25 WHEN THE VIOLATION IS THE CAUSE OF DEATH.

26 * * *

27 § 3735. HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE.

28 (A) OFFENSE DEFINED.--ANY PERSON WHO UNINTENTIONALLY CAUSES
29 THE DEATH OF ANOTHER PERSON AS THE RESULT OF A VIOLATION OF
30 SECTION [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF

1 ALCOHOL OR CONTROLLED SUBSTANCE) AND WHO IS CONVICTED OF
2 VIOLATING SECTION [3731] 3802 IS GUILTY OF A FELONY OF THE
3 SECOND DEGREE WHEN THE VIOLATION IS THE CAUSE OF DEATH AND THE
4 SENTENCING COURT SHALL ORDER THE PERSON TO SERVE A MINIMUM TERM
5 OF IMPRISONMENT OF NOT LESS THAN THREE YEARS. A CONSECUTIVE
6 THREE-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH VICTIM
7 WHOSE DEATH IS THE RESULT OF THE VIOLATION OF SECTION [3731]
8 3802.

9 * * *

10 § 3735.1. AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE
11 INFLUENCE.

12 (A) OFFENSE DEFINED.--ANY PERSON WHO NEGLIGENTLY CAUSES
13 SERIOUS BODILY INJURY TO ANOTHER PERSON AS THE RESULT OF A
14 VIOLATION OF SECTION [3731] 3802 (RELATING TO DRIVING UNDER
15 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND WHO IS
16 CONVICTED OF VIOLATING SECTION [3731] 3802 COMMITS A FELONY OF
17 THE SECOND DEGREE WHEN THE VIOLATION IS THE CAUSE OF THE INJURY.

18 * * *

19 § 3755. REPORTS BY EMERGENCY ROOM PERSONNEL.

20 (A) GENERAL RULE.--IF, AS A RESULT OF A MOTOR VEHICLE
21 ACCIDENT, THE PERSON WHO DROVE, OPERATED OR WAS IN ACTUAL
22 PHYSICAL CONTROL OF THE MOVEMENT OF ANY INVOLVED MOTOR VEHICLE
23 REQUIRES MEDICAL TREATMENT IN AN EMERGENCY ROOM OF A HOSPITAL
24 AND IF PROBABLE CAUSE EXISTS TO BELIEVE A VIOLATION OF SECTION
25 [3731] 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
26 CONTROLLED SUBSTANCE) WAS INVOLVED, THE EMERGENCY ROOM PHYSICIAN
27 OR HIS DESIGNEE SHALL PROMPTLY TAKE BLOOD SAMPLES FROM THOSE
28 PERSONS AND TRANSMIT THEM WITHIN 24 HOURS FOR TESTING TO THE
29 DEPARTMENT OF HEALTH OR A CLINICAL LABORATORY LICENSED AND
30 APPROVED BY THE DEPARTMENT OF HEALTH AND SPECIFICALLY DESIGNATED

1 FOR THIS PURPOSE. THIS SECTION SHALL BE APPLICABLE TO ALL
2 INJURED OCCUPANTS WHO WERE CAPABLE OF MOTOR VEHICLE OPERATION IF
3 THE OPERATOR OR PERSON IN ACTUAL PHYSICAL CONTROL OF THE
4 MOVEMENT OF THE MOTOR VEHICLE CANNOT BE DETERMINED. TEST RESULTS
5 SHALL BE RELEASED UPON REQUEST OF THE PERSON TESTED, HIS
6 ATTORNEY, HIS PHYSICIAN OR GOVERNMENTAL OFFICIALS OR AGENCIES.

7 * * *

8 SECTION 18. TITLE 75 IS AMENDED BY ADDING A CHAPTER TO READ:

9 CHAPTER 38

10 DRIVING WHILE IMPAIRED

11 SEC.

12 3801. DEFINITIONS.

13 3802. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
14 SUBSTANCE.

15 3803. GRADING.

16 3804. PENALTIES.

17 3805. IGNITION INTERLOCK.

18 3806. PRIOR OFFENSES.

19 3807. ACCELERATED REHABILITATIVE DISPOSITION.

20 3808. ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
21 IGNITION INTERLOCK.

22 3809. RESTRICTION ON ALCOHOLIC BEVERAGES.

23 3810. AUTHORIZED USE NOT A DEFENSE.

24 3811. CERTAIN ARRESTS AUTHORIZED.

25 3812. PRELIMINARY HEARING OR ARRAIGNMENT.

26 3813. WORK RELEASE.

27 3814. DRUG AND ALCOHOL ASSESSMENTS.

28 3815. MANDATORY SENTENCING.

29 3816. REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS.

30 3817. REPORTING REQUIREMENTS FOR OFFENSES.

1 § 3801. DEFINITIONS.

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
3 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 "ADULT." AN INDIVIDUAL WHO IS AT LEAST 21 YEARS OF AGE.

6 "IGNITION INTERLOCK SYSTEM." A SYSTEM APPROVED BY THE
7 DEPARTMENT WHICH PREVENTS A VEHICLE FROM BEING STARTED OR
8 OPERATED UNLESS THE OPERATOR FIRST PROVIDES A BREATH SAMPLE
9 INDICATING THAT THE OPERATOR HAS AN ALCOHOL LEVEL LESS THAN
10 .025%.

11 "MINOR." AN INDIVIDUAL WHO IS UNDER 21 YEARS OF AGE.

12 § 3802. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
13 SUBSTANCE.

14 (A) GENERAL IMPAIRMENT.--

15 (1) AN INDIVIDUAL MAY NOT DRIVE, OPERATE OR BE IN ACTUAL
16 PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE AFTER IMBIBING
17 A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT THE INDIVIDUAL WAS
18 INCAPABLE OF SAFELY DRIVING, OPERATING OR BEING IN ACTUAL
19 PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.

20 (2) AN INDIVIDUAL MAY NOT DRIVE, OPERATE OR BE IN ACTUAL
21 PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE AFTER IMBIBING
22 A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT THE ALCOHOL
23 CONCENTRATION IN THE INDIVIDUAL'S BLOOD OR BREATH IS AT LEAST
24 .08% BUT LESS THAN .10% WITHIN THREE HOURS AFTER THE
25 INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL PHYSICAL
26 CONTROL OF THE MOVEMENT OF THE VEHICLE.

27 (B) HIGH RATE OF ALCOHOL.--AN INDIVIDUAL MAY NOT DRIVE,
28 OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A
29 VEHICLE AFTER IMBIBING A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT
30 THE ALCOHOL CONCENTRATION IN THE INDIVIDUAL'S BLOOD OR BREATH IS

1 AT LEAST .10% BUT LESS THAN .16% WITHIN THREE HOURS AFTER THE
2 INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL PHYSICAL
3 CONTROL OF THE MOVEMENT OF THE VEHICLE.

4 (C) HIGHEST RATE OF ALCOHOL.--AN INDIVIDUAL MAY NOT DRIVE,
5 OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A
6 VEHICLE AFTER IMBIBING A SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT
7 THE ALCOHOL CONCENTRATION IN THE INDIVIDUAL'S BLOOD OR BREATH IS
8 .16% OR HIGHER WITHIN THREE HOURS AFTER THE INDIVIDUAL HAS
9 DRIVEN, OPERATED OR BEEN IN ACTUAL PHYSICAL CONTROL OF THE
10 MOVEMENT OF THE VEHICLE.

11 (D) CONTROLLED SUBSTANCES.--AN INDIVIDUAL MAY NOT DRIVE,
12 OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A
13 VEHICLE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

14 (1) THERE IS IN THE INDIVIDUAL'S BLOOD ANY AMOUNT OF A:

15 (I) SCHEDULE I CONTROLLED SUBSTANCE, AS DEFINED IN
16 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
17 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT;

18 (II) SCHEDULE II OR SCHEDULE III CONTROLLED
19 SUBSTANCE, AS DEFINED IN THE CONTROLLED SUBSTANCE, DRUG,
20 DEVICE AND COSMETIC ACT, WHICH HAS NOT BEEN MEDICALLY
21 PRESCRIBED FOR THE INDIVIDUAL; OR

22 (III) METABOLITE OF A SUBSTANCE UNDER SUBPARAGRAPH
23 (I) OR (II).

24 (2) THE INDIVIDUAL IS UNDER THE INFLUENCE OF A DRUG OR
25 COMBINATION OF DRUGS TO A DEGREE WHICH IMPAIRS THE
26 INDIVIDUAL'S ABILITY TO SAFELY DRIVE, OPERATE OR BE IN ACTUAL
27 PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.

28 (3) THE INDIVIDUAL IS UNDER THE COMBINED INFLUENCE OF
29 ALCOHOL AND A DRUG OR COMBINATION OF DRUGS TO A DEGREE WHICH
30 IMPAIRS THE INDIVIDUAL'S ABILITY TO SAFELY DRIVE, OPERATE OR

1 BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.

2 (4) THE INDIVIDUAL IS UNDER THE INFLUENCE OF A SOLVENT
3 OR NOXIOUS SUBSTANCE IN VIOLATION OF 18 PA.C.S. § 7303
4 (RELATING TO SALE OR ILLEGAL USE OF CERTAIN SOLVENTS AND
5 NOXIOUS SUBSTANCES).

6 (E) MINORS.--A MINOR MAY NOT DRIVE, OPERATE OR BE IN ACTUAL
7 PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE AFTER IMBIBING A
8 SUFFICIENT AMOUNT OF ALCOHOL SUCH THAT THE ALCOHOL CONCENTRATION
9 IN THE MINOR'S BLOOD OR BREATH IS .02% OR HIGHER WITHIN THREE
10 HOURS AFTER THE MINOR HAS DRIVEN, OPERATED OR BEEN IN ACTUAL
11 PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE.

12 (F) COMMERCIAL SCHOOL VEHICLES.--AN INDIVIDUAL MAY NOT
13 DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT
14 OF A COMMERCIAL VEHICLE OR SCHOOL VEHICLE IN ANY OF THE
15 FOLLOWING CIRCUMSTANCES:

16 (1) AFTER THE INDIVIDUAL HAS IMBIBED A SUFFICIENT AMOUNT
17 OF ALCOHOL SUCH THAT THE ALCOHOL CONCENTRATION IN THE
18 INDIVIDUAL'S BLOOD OR BREATH IS:

19 (I) .04% OR GREATER WITHIN THREE HOURS AFTER THE
20 INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL
21 PHYSICAL CONTROL OF THE MOVEMENT OF A COMMERCIAL VEHICLE
22 OTHER THAN A SCHOOL BUS OR A SCHOOL VEHICLE.

23 (II) .02% OR GREATER WITHIN THREE HOURS AFTER THE
24 INDIVIDUAL HAS DRIVEN, OPERATED OR BEEN IN ACTUAL
25 PHYSICAL CONTROL OF THE MOVEMENT OF A SCHOOL BUS OR A
26 SCHOOL VEHICLE.

27 (2) AFTER THE INDIVIDUAL HAS IMBIBED A SUFFICIENT AMOUNT
28 OF ALCOHOL SUCH THAT THE INDIVIDUAL WAS INCAPABLE OF SAFELY
29 DRIVING, OPERATING OR BEING IN ACTUAL PHYSICAL CONTROL OF THE
30 MOVEMENT OF A COMMERCIAL VEHICLE.

1 (3) WHILE THE INDIVIDUAL IS UNDER THE INFLUENCE OF A
2 CONTROLLED SUBSTANCE OR COMBINATION OF CONTROLLED SUBSTANCES,
3 AS DEFINED IN SECTION 1603 (RELATING TO DEFINITIONS).

4 (4) WHILE THE INDIVIDUAL IS UNDER THE COMBINED INFLUENCE
5 OF ALCOHOL AND A CONTROLLED SUBSTANCE OR COMBINATION OF
6 CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 1603.

7 (G) EXCEPTION TO THREE-HOUR RULE.--NOTWITHSTANDING THE
8 PROVISIONS OF SUBSECTION (A), (B), (C), (E) OR (F), WHERE
9 ALCOHOL CONCENTRATION IN AN INDIVIDUAL'S BLOOD OR BREATH IS AN
10 ELEMENT OF THE OFFENSE, EVIDENCE OF SUCH ALCOHOL CONCENTRATION
11 MORE THAN THREE HOURS AFTER THE INDIVIDUAL HAS DRIVEN, OPERATED
12 OR BEEN IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF THE
13 VEHICLE IS SUFFICIENT TO ESTABLISH THAT ELEMENT OF THE OFFENSE
14 UNDER THE FOLLOWING CIRCUMSTANCES:

15 (1) WHERE THE COMMONWEALTH SHOWS GOOD CAUSE EXPLAINING
16 WHY THE CHEMICAL TEST COULD NOT BE PERFORMED WITHIN THREE
17 HOURS; AND

18 (2) WHERE THE COMMONWEALTH ESTABLISHES THAT THE
19 INDIVIDUAL DID NOT IMBIBE ANY ALCOHOL BETWEEN THE TIME THE
20 INDIVIDUAL WAS ARRESTED AND THE TIME THE TEST WAS PERFORMED.

21 § 3803. GRADING.

22 (A) BASIC OFFENSES.--

23 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (RELATING
24 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
25 SUBSTANCE) AND HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A
26 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
27 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
28 FINE UNDER SECTION 3804 (RELATING TO PENALTIES).

29 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) AND HAS
30 MORE THAN ONE PRIOR OFFENSE COMMITS A MISDEMEANOR OF THE

1 SECOND DEGREE.

2 (B) OTHER OFFENSES.--

3 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(B), (E) OR
4 (F) AND WHO HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A
5 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
6 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
7 FINE UNDER SECTION 3804.

8 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(C) OR (D)
9 AND WHO HAS NO PRIOR OFFENSES COMMITS A MISDEMEANOR FOR WHICH
10 THE INDIVIDUAL MAY BE SENTENCED TO A TERM OF IMPRISONMENT OF
11 NOT MORE THAN SIX MONTHS AND TO PAY A FINE UNDER SECTION
12 3804.

13 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(B), (E) OR
14 (F) AND WHO HAS MORE THAN ONE PRIOR OFFENSE COMMITS A
15 MISDEMEANOR OF THE FIRST DEGREE.

16 (4) AN INDIVIDUAL WHO VIOLATES SECTION 3802(C) OR (D)
17 AND WHO HAS ONE OR MORE PRIOR OFFENSES COMMITS A MISDEMEANOR
18 OF THE FIRST DEGREE.

19 § 3804. PENALTIES.

20 (A) GENERAL IMPAIRMENT.--AN INDIVIDUAL WHO VIOLATES SECTION
21 3802(A) (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
22 CONTROLLED SUBSTANCE) SHALL BE SENTENCED AS FOLLOWS:

23 (1) FOR A FIRST OFFENSE, TO:

24 (I) UNDERGO A PERIOD OF PROBATION NOT TO EXCEED SIX
25 MONTHS;

26 (II) PAY A FINE OF \$300;

27 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
28 APPROVED BY THE DEPARTMENT; AND

29 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
30 REQUIREMENTS IMPOSED UNDER SECTION 3814 (RELATING TO DRUG

1 AND ALCOHOL ASSESSMENTS) AND SECTION 3815 (RELATING TO
2 MANDATORY SENTENCING).

3 (2) FOR A SECOND OFFENSE, TO:

4 (I) UNDERGO IMPRISONMENT FOR NOT LESS THAN FIVE DAYS
5 NOR MORE THAN SIX MONTHS;

6 (II) PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN
7 \$2,500;

8 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
9 APPROVED BY THE DEPARTMENT; AND

10 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
11 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

12 (3) FOR A THIRD OR SUBSEQUENT OFFENSE, TO:

13 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN TEN DAYS
14 NOR MORE THAN TWO YEARS;

15 (II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN
16 \$5,000; AND

17 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
18 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

19 (B) HIGH RATE OF BLOOD ALCOHOL; MINORS; COMMERCIAL VEHICLES
20 AND SCHOOL BUSES AND SCHOOL VEHICLES; ACCIDENTS.--EXCEPT AS SET
21 FORTH IN SUBSECTION (C), AN INDIVIDUAL WHO VIOLATES SECTION
22 3802(A)(1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY
23 INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR IN
24 DAMAGE TO A VEHICLE OR OTHER PROPERTY OR WHO VIOLATES SECTION
25 3802(B), (E) OR (F) SHALL BE SENTENCED AS FOLLOWS:

26 (1) FOR A FIRST OFFENSE, TO:

27 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 72
28 CONSECUTIVE HOURS NOR MORE THAN SIX MONTHS;

29 (II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN
30 \$5,000;

1 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
2 APPROVED BY THE DEPARTMENT; AND
3 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
4 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.
5 (2) FOR A SECOND OFFENSE, TO:
6 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 30 DAYS
7 NOR MORE THAN SIX MONTHS;
8 (II) PAY A FINE OF NOT LESS THAN \$750 NOR MORE THAN
9 \$5,000;
10 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
11 APPROVED BY THE DEPARTMENT; AND
12 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
13 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.
14 (3) FOR A THIRD OFFENSE, TO:
15 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 120 DAYS
16 NOR MORE THAN FIVE YEARS;
17 (II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE
18 THAN \$10,000; AND
19 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
20 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.
21 (4) FOR A FOURTH OR SUBSEQUENT OFFENSE, TO:
22 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR
23 NOR MORE THAN FIVE YEARS;
24 (II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE
25 THAN \$10,000; AND
26 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
27 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.
28 (C) INCAPACITY; HIGHEST BLOOD ALCOHOL; CONTROLLED
29 SUBSTANCES.--AN INDIVIDUAL CONVICTED OF VIOLATING SECTION
30 3802(A)(1) AFTER HAVING REFUSED TESTING OF BLOOD OR BREATH OR OF

1 VIOLATING SECTION 3802(C) OR (D) SHALL BE SENTENCED AS FOLLOWS:

2 (1) FOR A FIRST OFFENSE, TO:

3 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN FIVE
4 CONSECUTIVE DAYS NOR MORE THAN SIX MONTHS;

5 (II) PAY A FINE OF NOT LESS THAN \$1,000 NOR MORE
6 THAN \$5,000;

7 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
8 APPROVED BY THE DEPARTMENT; AND

9 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
10 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

11 (2) FOR A SECOND OFFENSE, TO:

12 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 90 DAYS
13 NOR MORE THAN FIVE YEARS;

14 (II) PAY A FINE OF NOT LESS THAN \$1,500;

15 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
16 APPROVED BY THE DEPARTMENT; AND

17 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
18 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

19 (3) FOR A THIRD OR SUBSEQUENT OFFENSE, TO:

20 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR
21 NOR MORE THAN FIVE YEARS;

22 (II) PAY A FINE OF NOT LESS THAN \$2,500; AND

23 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
24 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

25 (D) EXTENDED SUPERVISION OF COURT.--WHERE A PERSON IS
26 SENTENCED PURSUANT TO THIS CHAPTER AND FOLLOWING THE INITIAL
27 ASSESSMENT REQUIRED BY SECTION 3814(1), THE PERSON IS DETERMINED
28 TO BE IN NEED OF ADDITIONAL TREATMENT PURSUANT TO SECTION
29 3814(2), THE JUDGE SHALL IMPOSE A MINIMUM SENTENCE AS PROVIDED
30 BY LAW AND A MAXIMUM SENTENCE EQUAL TO THE STATUTORILY AVAILABLE

1 MAXIMUM.

2 (E) SUSPENSION OF OPERATING PRIVILEGES UPON CONVICTION.--

3 (1) THE DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE
4 OF AN INDIVIDUAL UNDER PARAGRAPH (2) UPON RECEIVING A
5 CERTIFIED RECORD OF THE INDIVIDUAL'S CONVICTION OF OR AN
6 ADJUDICATION OF DELINQUENCY FOR:

7 (I) AN OFFENSE UNDER SECTION 3802; OR

8 (II) A SUBSTANTIALLY SIMILAR OFFENSE REPORTED TO THE
9 DEPARTMENT UNDER ARTICLE III OF THE COMPACT IN SECTION
10 1581 (RELATING TO DRIVER'S LICENSE COMPACT).

11 (2) SUSPENSION UNDER PARAGRAPH (1)(I) SHALL BE IN
12 ACCORDANCE WITH THE FOLLOWING:

13 (I) EXCEPT AS PROVIDED FOR IN SUBPARAGRAPH (III), 12
14 MONTHS FOR AN UNGRADED MISDEMEANOR OR MISDEMEANOR OF THE
15 SECOND DEGREE UNDER THIS CHAPTER.

16 (II) 24 MONTHS FOR A MISDEMEANOR OF THE FIRST DEGREE
17 UNDER THIS CHAPTER.

18 (III) THERE SHALL BE NO SUSPENSION FOR AN UNGRADED
19 MISDEMEANOR UNDER SECTION 3802(A) WHERE THE PERSON HAS NO
20 PRIOR OFFENSE.

21 (3) SUSPENSION IMPOSED UNDER PARAGRAPH (1)(II) SHALL BE
22 IN ACCORDANCE WITH THE FOLLOWING:

23 (I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (II), THE
24 PERIOD SHALL BE SIX MONTHS.

25 (II) IF THE INDIVIDUAL HAS A PRIOR OFFENSE AS
26 DEFINED BY SECTION 3806(A) (RELATING TO PRIOR OFFENSES),
27 THE PERIOD SHALL BE ONE YEAR.

28 (III) NOTWITHSTANDING ANY PROVISION OF LAW OR
29 ENFORCEMENT AGREEMENT TO THE CONTRARY, A SUSPENSION
30 IMPOSED PURSUANT TO PARAGRAPH (1)(II) SHALL DATE FROM AND

1 RUN CONCURRENTLY TO ANY SUSPENSION IMPOSED BY THE
2 REPORTING PARTY STATE.

3 (F) COMMUNITY SERVICE ASSIGNMENTS.--IN ADDITION TO THE
4 PENALTIES SET FORTH IN THIS SECTION, THE SENTENCING JUDGE MAY
5 IMPOSE UP TO 150 HOURS OF COMMUNITY SERVICE. WHERE THE
6 INDIVIDUAL HAS BEEN ORDERED TO DRUG AND ALCOHOL TREATMENT
7 PURSUANT TO SECTIONS 3814 AND 3815, THE COMMUNITY SERVICE SHALL
8 BE CERTIFIED BY THE DRUG AND ALCOHOL TREATMENT PROGRAM AS
9 CONSISTENT WITH ANY DRUG AND ALCOHOL TREATMENT REQUIREMENTS
10 IMPOSED UNDER SECTIONS 3814 AND 3815.

11 (G) COURT-ORDERED IGNITION INTERLOCK.--IF THE PERSON HAS A
12 PRIOR OFFENSE AS DEFINED IN SECTION 3806(A), THE COURT SHALL
13 ORDER THE DEPARTMENT TO REQUIRE AN IGNITION INTERLOCK SYSTEM
14 UNDER SECTION 3805 (RELATING TO IGNITION INTERLOCK).

15 (H) SENTENCING GUIDELINES.--THE SENTENCING GUIDELINES
16 PROMULGATED BY THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL
17 NOT SUPERSEDE THE MANDATORY PENALTIES OF THIS SECTION.

18 (I) APPEAL.--THE COMMONWEALTH HAS THE RIGHT TO APPEAL
19 DIRECTLY TO THE SUPERIOR COURT ANY ORDER OF COURT WHICH IMPOSES
20 A SENTENCE FOR VIOLATION OF THIS SECTION WHICH DOES NOT MEET THE
21 REQUIREMENTS OF THIS SECTION. THE SUPERIOR COURT SHALL REMAND
22 THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A SENTENCE IN
23 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

24 (J) FIRST CLASS CITIES.--NOTWITHSTANDING THE PROVISION FOR
25 DIRECT APPEAL TO THE SUPERIOR COURT, IF, IN A CITY OF THE FIRST
26 CLASS, A PERSON APPEALS FROM A JUDGMENT OF SENTENCE UNDER THIS
27 SECTION FROM THE MUNICIPAL COURT TO THE COMMON PLEAS COURT FOR A
28 TRIAL DE NOVO, THE COMMONWEALTH SHALL HAVE THE RIGHT TO APPEAL
29 DIRECTLY TO THE SUPERIOR COURT FROM THE ORDER OF THE COMMON
30 PLEAS COURT IF THE SENTENCE IMPOSED IS IN VIOLATION OF THIS

1 SECTION. IF, IN A CITY OF THE FIRST CLASS, A PERSON APPEALS TO
2 THE COURT OF COMMON PLEAS AFTER CONVICTION OF A VIOLATION OF
3 THIS SECTION IN THE MUNICIPAL COURT AND THEREAFTER WITHDRAWS HIS
4 APPEAL TO THE COMMON PLEAS COURT, THEREBY REINSTATING THE
5 JUDGMENT OF SENTENCE OF THE MUNICIPAL COURT, THE COMMONWEALTH
6 SHALL HAVE 30 DAYS FROM THE DATE OF THE WITHDRAWAL TO APPEAL TO
7 THE SUPERIOR COURT IF THE SENTENCE IS IN VIOLATION OF THIS
8 SECTION.

9 § 3805. IGNITION INTERLOCK.

10 (A) GENERAL RULE.--WHERE A PERSON VIOLATES SECTION 3802
11 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
12 SUBSTANCE) AND HAS A PRIOR OFFENSE AS DEFINED IN SECTION 3806(A)
13 (RELATING TO PRIOR OFFENSES) AND THE PERSON SEEKS A RESTORATION
14 OF OPERATING PRIVILEGES, THE DEPARTMENT SHALL REQUIRE AS A
15 CONDITION OF ISSUING A RESTRICTED LICENSE PURSUANT TO THIS
16 SECTION THAT ANY OF THE FOLLOWING OCCUR:

17 (1) EACH MOTOR VEHICLE OWNED BY THE PERSON OR REGISTERED
18 TO THE PERSON HAS BEEN EQUIPPED WITH AN APPROVED IGNITION
19 INTERLOCK SYSTEM AND REMAINS SO FOR THE DURATION OF THE
20 RESTRICTED LICENSE PERIOD.

21 (2) IF THERE ARE NO VEHICLES OWNED BY THE PERSON OR
22 REGISTERED TO THE PERSON THAT THE PERSON SO CERTIFY TO THE
23 DEPARTMENT. A PERSON SO CERTIFYING SHALL BE DEEMED TO HAVE
24 SATISFIED THE REQUIREMENT THAT ALL VEHICLES OWNED BY THE
25 PERSON OR REGISTERED TO THE PERSON BE EQUIPPED WITH AN
26 IGNITION INTERLOCK SYSTEM AS REQUIRED BY THIS SUBSECTION.

27 (B) APPLICATION FOR A RESTRICTED LICENSE.--A PERSON SUBJECT
28 TO THIS SECTION SHALL APPLY TO THE DEPARTMENT FOR AN IGNITION
29 INTERLOCK RESTRICTED LICENSE UNDER SECTION 1951 (RELATING TO
30 DRIVER'S LICENSE AND LEARNER'S PERMIT), WHICH SHALL BE CLEARLY

1 MARKED TO RESTRICT THE PERSON TO OPERATING ONLY MOTOR VEHICLES
2 EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM. UPON
3 ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE TO ANY
4 PERSON, THE DEPARTMENT SHALL NOTIFY THE PERSON THAT UNTIL THE
5 PERSON OBTAINS AN UNRESTRICTED LICENSE THE PERSON MAY NOT OWN,
6 REGISTER OR OPERATE ANY VEHICLE WHICH IS NOT EQUIPPED WITH AN
7 APPROVED IGNITION INTERLOCK SYSTEM.

8 (C) ISSUANCE OF UNRESTRICTED LICENSE.--ONE YEAR FROM THE
9 DATE OF ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE
10 UNDER THIS SECTION, IF OTHERWISE ELIGIBLE, A PERSON MAY APPLY
11 FOR A REPLACEMENT LICENSE UNDER SECTION 1951(D) THAT DOES NOT
12 CONTAIN THE IGNITION INTERLOCK SYSTEM RESTRICTION.

13 (D) PROHIBITION.--UNTIL THE PERSON OBTAINS AN UNRESTRICTED
14 LICENSE, THE PERSON MAY NOT OWN, REGISTER OR OPERATE ANY MOTOR
15 VEHICLE ON A HIGHWAY WITHIN THIS COMMONWEALTH UNLESS THE MOTOR
16 VEHICLE IS EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM.

17 (E) ECONOMIC HARDSHIP EXEMPTION.--A PERSON SUBJECT TO THE
18 REQUIREMENTS OF SUBSECTION (A) MAY APPLY TO THE DEPARTMENT FOR A
19 HARDSHIP EXEMPTION TO THE REQUIREMENT THAT AN IGNITION INTERLOCK
20 SYSTEM MUST BE INSTALLED IN EACH OF THE PERSON'S MOTOR VEHICLES.
21 WHERE THE DEPARTMENT DETERMINES THAT THE APPLICANT ESTABLISHES
22 THAT SUCH A REQUIREMENT WOULD RESULT IN UNDUE FINANCIAL
23 HARDSHIP, THE DEPARTMENT MAY PERMIT THE APPLICANT TO INSTALL AN
24 IGNITION INTERLOCK SYSTEM ON ONLY ONE OF THE APPLICANT'S
25 VEHICLES. HOWEVER, THE APPLICANT IN ACCORDANCE WITH SECTION 3808
26 (RELATING TO ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED
27 WITH IGNITION INTERLOCK) SHALL BE PROHIBITED FROM DRIVING ANY
28 VEHICLE, INCLUDING ANY OF THE APPLICANT'S VEHICLES, WITHOUT AN
29 IGNITION INTERLOCK SYSTEM.

30 (F) EMPLOYMENT EXEMPTION.--IF A PERSON WITH A RESTRICTED

1 LICENSE IS REQUIRED IN THE COURSE AND SCOPE OF EMPLOYMENT TO
2 OPERATE A MOTOR VEHICLE OWNED BY THE PERSON'S EMPLOYER, THE
3 FOLLOWING APPLY:

4 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PERSON MAY
5 OPERATE THAT MOTOR VEHICLE IN THE COURSE AND SCOPE OF
6 EMPLOYMENT WITHOUT INSTALLATION OF AN IGNITION INTERLOCK
7 SYSTEM IF:

8 (I) THE EMPLOYER HAS BEEN NOTIFIED THAT THE EMPLOYEE
9 IS RESTRICTED; AND

10 (II) THE EMPLOYEE HAS PROOF OF THE NOTIFICATION IN
11 THE EMPLOYEE'S POSSESSION WHILE OPERATING THE EMPLOYER'S
12 MOTOR VEHICLE.

13 (2) PARAGRAPH (1) DOES NOT APPLY IN ANY OF THE FOLLOWING
14 CIRCUMSTANCES:

15 (I) TO THE EXTENT THAT AN EMPLOYER-OWNED MOTOR
16 VEHICLE IS MADE AVAILABLE TO THE EMPLOYEE FOR PERSONAL
17 USE.

18 (II) IF THE EMPLOYER-OWNED MOTOR VEHICLE IS OWNED BY
19 AN ENTITY WHICH IS WHOLLY OR PARTIALLY OWNED BY THE
20 PERSON SUBJECT TO THIS SECTION.

21 § 3806. PRIOR OFFENSES.

22 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B),
23 THE TERM "PRIOR OFFENSE" AS USED IN THIS CHAPTER SHALL MEAN A
24 CONVICTION, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT
25 DECREE, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR
26 OTHER FORM OF PRELIMINARY DISPOSITION BEFORE THE SENTENCING ON
27 THE PRESENT VIOLATION FOR ANY OF THE FOLLOWING:

28 (1) AN OFFENSE UNDER FORMER SECTION 3731 (RELATING TO
29 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);

30 (2) AN OFFENSE UNDER SECTION 3802 (RELATING TO DRIVING

1 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);

2 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
3 PARAGRAPHS (1) OR (2) IN ANOTHER JURISDICTION; OR

4 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
5 PARAGRAPHS (1), (2) OR (3).

6 (B) EXCEPTIONS.--FOR PURPOSES OF SECTION 3804 (RELATING TO
7 PENALTIES), THE CALCULATION OF PRIOR AND SUBSEQUENT OFFENSES
8 SHALL INCLUDE ANY CONVICTION, ADJUDICATION OF DELINQUENCY,
9 JUVENILE CONSENT DECREE, ACCEPTANCE OF ACCELERATED
10 REHABILITATIVE DISPOSITION OR OTHER FORM OF PRELIMINARY
11 DISPOSITION WITHIN THE TEN YEARS BEFORE THE PRESENT VIOLATION
12 OCCURRED FOR ANY OF THE FOLLOWING:

13 (1) AN OFFENSE UNDER FORMER SECTION 3731;

14 (2) AN OFFENSE UNDER SECTION 3802;

15 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
16 PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR

17 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
18 PARAGRAPH (1), (2) OR (3).

19 § 3807. ACCELERATED REHABILITATIVE DISPOSITION.

20 (A) ELIGIBILITY.--

21 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), A DEFENDANT
22 CHARGED WITH A VIOLATION OF SECTION 3802 (RELATING TO DRIVING
23 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) MAY BE
24 CONSIDERED BY THE ATTORNEY FOR THE COMMONWEALTH FOR
25 PARTICIPATION IN AN ACCELERATED REHABILITATIVE DISPOSITION
26 PROGRAM IN A COUNTY IF THE PROGRAM INCLUDES THE MINIMUM
27 REQUIREMENTS CONTAINED IN THIS SECTION.

28 (2) THE ATTORNEY FOR THE COMMONWEALTH SHALL NOT SUBMIT A
29 CHARGE BROUGHT UNDER THIS CHAPTER FOR ACCELERATED
30 REHABILITATIVE DISPOSITION IF ANY OF THE FOLLOWING APPLY:

1 (I) THE DEFENDANT HAS BEEN FOUND GUILTY OF OR
2 ACCEPTED ACCELERATED REHABILITATIVE DISPOSITION OF A
3 CHARGE BROUGHT UNDER SECTION 3802 WITHIN TEN YEARS OF THE
4 DATE OF THE CURRENT OFFENSE UNLESS THE CHARGE WAS FOR AN
5 UNGRADED MISDEMEANOR UNDER SECTION 3802(A)(2) AND WAS THE
6 DEFENDANT'S FIRST OFFENSE UNDER SECTION 3802.

7 (II) AN ACCIDENT OCCURRED IN CONNECTION WITH THE
8 EVENTS SURROUNDING THE CURRENT OFFENSE AND AN INDIVIDUAL
9 OTHER THAN THE DEFENDANT WAS KILLED OR SUFFERED SERIOUS
10 BODILY INJURY AS A RESULT OF THE ACCIDENT.

11 (III) THERE WAS A PASSENGER UNDER 14 YEARS OF AGE IN
12 THE VEHICLE THE DEFENDANT WAS OPERATING.

13 (B) EVALUATION AND TREATMENT.--

14 (1) A DEFENDANT OFFERED ACCELERATED REHABILITATIVE
15 DISPOSITION FOR A VIOLATION OF SECTION 3802 IS, AS A
16 CONDITION OF PARTICIPATION IN THE PROGRAM, SUBJECT TO THE
17 FOLLOWING REQUIREMENTS IN ADDITION TO ANY OTHER CONDITIONS OF
18 PARTICIPATION IMPOSED BY THE COURT:

19 (I) THE DEFENDANT MUST ATTEND AND SUCCESSFULLY
20 COMPLETE AN ALCOHOL HIGHWAY SAFETY SCHOOL ESTABLISHED
21 UNDER SECTION 1549 (RELATING TO ESTABLISHMENT OF
22 SCHOOLS). A PARTICIPATING DEFENDANT SHALL BE GIVEN BOTH
23 ORAL AND WRITTEN NOTICE OF THE PROVISIONS OF SECTION
24 1543(B) (RELATING TO DRIVING WHILE OPERATING PRIVILEGE IS
25 SUSPENDED OR REVOKED).

26 (II) PRIOR TO RECEIVING ACCELERATED REHABILITATIVE
27 DISPOSITION OR OTHER PRELIMINARY DISPOSITION, THE
28 DEFENDANT MUST BE EVALUATED UNDER SECTION 3816(A)
29 (RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE
30 OFFENDERS) TO DETERMINE THE EXTENT OF THE DEFENDANT'S

1 INVOLVEMENT WITH ALCOHOL OR OTHER DRUG AND TO ASSIST THE
2 COURT IN DETERMINING WHAT CONDITIONS OF ACCELERATED
3 REHABILITATIVE DISPOSITION WOULD BENEFIT THE DEFENDANT
4 AND THE PUBLIC. IF THE EVALUATION INDICATES THERE IS A
5 NEED FOR COUNSELING OR TREATMENT, THE DEFENDANT SHALL BE
6 SUBJECT TO A FULL ASSESSMENT FOR ALCOHOL AND DRUG
7 ADDICTION IN ACCORDANCE WITH THE PROVISIONS OF SECTION
8 3814(3) AND (4) (RELATING TO DRUG AND ALCOHOL
9 ASSESSMENTS).

10 (III) IF THE DEFENDANT IS ASSESSED UNDER
11 SUBPARAGRAPH (II) TO BE IN NEED OF TREATMENT, THE
12 DEFENDANT MUST PARTICIPATE AND COOPERATE WITH A LICENSED
13 ALCOHOL OR DRUG ADDICTION TREATMENT PROGRAM. THE LEVEL
14 AND DURATION OF TREATMENT SHALL BE IN ACCORDANCE WITH THE
15 RECOMMENDATIONS WITH THE FULL ASSESSMENT. NOTHING IN THIS
16 SUBPARAGRAPH SHALL PREVENT A TREATMENT PROGRAM FROM
17 REFUSING TO ACCEPT A DEFENDANT IF THE PROGRAM
18 ADMINISTRATOR DEEMS THE DEFENDANT TO BE INAPPROPRIATE FOR
19 ADMISSION TO THE PROGRAM. A TREATMENT PROGRAM SHALL
20 RETAIN THE RIGHT TO IMMEDIATELY DISCHARGE INTO THE
21 CUSTODY OF THE PROBATION OFFICER AN OFFENDER WHO FAILS TO
22 COMPLY WITH PROGRAM RULES AND TREATMENT EXPECTATIONS OR
23 REFUSES TO CONSTRUCTIVELY ENGAGE IN THE TREATMENT
24 PROCESS.

25 (IV) THE DEFENDANT MUST REMAIN SUBJECT TO COURT
26 SUPERVISION FOR SIX MONTHS.

27 (V) THE DEFENDANT MUST MAKE RESTITUTION TO ANY
28 PERSON THAT INCURRED DETERMINABLE FINANCIAL LOSS AS A
29 RESULT OF THE DEFENDANT'S ACTIONS WHICH RESULTED IN THE
30 OFFENSE. RESTITUTION MUST BE SUBJECT TO COURT

1 SUPERVISION.

2 (VI) THE DEFENDANT MUST PAY THE REASONABLE COSTS OF
3 A MUNICIPAL CORPORATION IN CONNECTION WITH THE OFFENSE.
4 FEES IMPOSED UNDER THIS SUBPARAGRAPH SHALL BE DISTRIBUTED
5 TO THE AFFECTED MUNICIPAL CORPORATION.

6 (VII) THE DEFENDANT MUST PAY ANY OTHER FEE,
7 SURCHARGE OR COST REQUIRED BY LAW. EXCEPT AS SET FORTH IN
8 SUBPARAGRAPH (VI) OR (VIII), A FEE OR FINANCIAL CONDITION
9 IMPOSED BY A JUDGE AS A CONDITION OF ACCELERATED
10 REHABILITATIVE DISPOSITION OR ANY OTHER PRELIMINARY
11 DISPOSITION OF ANY CHARGE UNDER THIS CHAPTER SHALL BE
12 DISTRIBUTED AS PROVIDED FOR IN 42 PA.C.S. §§ 3571
13 (RELATING TO COMMONWEALTH PORTION OF FINES, ETC.) AND
14 3573 (RELATING TO MUNICIPAL CORPORATION PORTION OF FINES,
15 ETC.).

16 (VIII) THE DEFENDANT MUST PAY THE COSTS OF
17 COMPLIANCE WITH SUBPARAGRAPHS (I), (II) AND (III).

18 (2) THE DEFENDANT SHALL BE SUBJECT TO A FULL ASSESSMENT
19 FOR ALCOHOL AND DRUG ADDICTION IF ANY OF THE FOLLOWING APPLY:

20 (I) THE EVALUATION UNDER PARAGRAPH (1)(II) INDICATES
21 A LIKELIHOOD THAT THE DEFENDANT IS ADDICTED TO ALCOHOL OR
22 OTHER DRUGS.

23 (II) THE DEFENDANT'S BLOOD ALCOHOL CONTENT AT THE
24 TIME OF THE OFFENSE WAS AT LEAST .16%.

25 (3) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL BE
26 CONDUCTED BY ONE OF THE FOLLOWING:

27 (I) THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.

28 (II) THE COUNTY AGENCY WITH RESPONSIBILITY FOR
29 COUNTY DRUG AND ALCOHOL PROGRAMS OR ITS DESIGNEE.

30 (III) THE CLINICAL PERSONNEL OF A FACILITY LICENSED

1 BY THE DEPARTMENT OF HEALTH FOR THE CONDUCT OF DRUG AND
2 ALCOHOL ADDICTION TREATMENT PROGRAMS.

3 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
4 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
5 ALL OF THE FOLLOWING:

6 (I) LENGTH OF STAY.

7 (II) LEVELS OF CARE.

8 (III) FOLLOW-UP CARE AND MONITORING.

9 (C) INSURANCE.--IF AN INDIVIDUAL WHO IS A SUBSCRIBER TO A
10 HEALTH INSURANCE, HEALTH MAINTENANCE ORGANIZATION OR OTHER
11 HEALTH PLAN THAT IS DOING BUSINESS IN THIS COMMONWEALTH, THE
12 INDIVIDUAL MAY NOT BE DEPRIVED OF ALCOHOL AND OTHER DRUG ABUSE
13 AND ADDICTION TREATMENT OR COVERAGE WITHIN THE SCOPE OF THAT
14 PLAN DUE TO THE IDENTIFICATION OF AN ALCOHOL OR OTHER DRUG
15 PROBLEM WHICH OCCURS AS A RESULT OF AN ASSESSMENT UNDER THIS
16 SECTION.

17 (D) MANDATORY SUSPENSION OF OPERATING PRIVILEGES.--AS A
18 CONDITION OF PARTICIPATION IN AN ACCELERATED REHABILITATIVE
19 DISPOSITION PROGRAM, THE COURT SHALL ORDER THE DEFENDANT'S
20 LICENSE SUSPENDED AS FOLLOWS:

21 (1) THERE SHALL BE NO LICENSE SUSPENSION IF THE
22 DEFENDANT'S BLOOD ALCOHOL CONCENTRATION AT THE TIME OF
23 TESTING WAS LESS THAN .10%.

24 (2) FOR 30 DAYS, IF THE DEFENDANT'S BLOOD ALCOHOL
25 CONCENTRATION AT THE TIME OF TESTING WAS AT LEAST .10% BUT
26 LESS THAN .16%.

27 (3) FOR 60 DAYS, IF:

28 (I) THE DEFENDANT'S BLOOD ALCOHOL CONCENTRATION AT
29 THE TIME OF TESTING WAS .16% OR HIGHER;

30 (II) THE DEFENDANT'S BLOOD ALCOHOL CONCENTRATION IS

1 NOT KNOWN; OR

2 (III) AN ACCIDENT WHICH RESULTED IN BODILY INJURY OR
3 IN DAMAGE TO A VEHICLE OR OTHER PROPERTY OCCURRED IN
4 CONNECTION WITH THE EVENTS SURROUNDING THE CURRENT
5 OFFENSE.

6 (E) FAILURE TO COMPLY.--

7 (1) A DEFENDANT WHO FAILS TO COMPLETE ANY OF THE
8 CONDITIONS OF PARTICIPATION CONTAINED IN THIS SECTION SHALL
9 BE DEEMED TO HAVE UNSUCCESSFULLY PARTICIPATED IN AN
10 ACCELERATED REHABILITATIVE DISPOSITION PROGRAM, AND THE
11 CRIMINAL RECORD UNDERLYING PARTICIPATION IN THE PROGRAM SHALL
12 NOT BE EXPUNGED.

13 (2) THE COURT SHALL DIRECT THE ATTORNEY FOR THE
14 COMMONWEALTH TO PROCEED ON THE CHARGES AS PRESCRIBED IN THE
15 RULES OF CRIMINAL PROCEDURE IF THE DEFENDANT:

16 (I) FAILS TO MEET ANY OF THE REQUIREMENTS OF THIS
17 SECTION;

18 (II) IS CHARGED WITH OR COMMITS AN OFFENSE UNDER 18
19 PA.C.S (RELATING TO CRIMES AND OFFENSES); OR

20 (III) VIOLATES ANY OTHER CONDITION IMPOSED BY THE
21 COURT.

22 § 3808. ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH
23 IGNITION INTERLOCK.

24 (A) OFFENSE DEFINED.--

25 (1) AN INDIVIDUAL REQUIRED TO OPERATE ONLY A MOTOR
26 VEHICLE EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM
27 UNDER SECTION 1553(D.2) (RELATING TO OCCUPATIONAL LIMITED
28 LICENSE) OR 3805 (RELATING TO IGNITION INTERLOCK) WHO
29 OPERATES A MOTOR VEHICLE ON A HIGHWAY OF THIS COMMONWEALTH
30 WITHOUT SUCH A SYSTEM COMMITS A SUMMARY OFFENSE AND SHALL,

1 UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN
2 \$300 AND NOT MORE THAN \$1,000 AND TO IMPRISONMENT FOR NOT
3 MORE THAN 90 DAYS.

4 (2) AN INDIVIDUAL REQUIRED TO OPERATE ONLY A MOTOR
5 VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM UNDER
6 SECTION 1553(D.2) OR 3805 WHO OPERATES A MOTOR VEHICLE ON A
7 HIGHWAY OF THIS COMMONWEALTH WITHOUT SUCH A SYSTEM AND WHO
8 HAS AN AMOUNT OF ALCOHOL BY WEIGHT IN HIS BLOOD THAT IS EQUAL
9 TO OR GREATER THAN .02% OR WHO HAS ANY AMOUNT OF A SCHEDULE
10 I, II OR III CONTROLLED SUBSTANCE, AS DEFINED IN THE IN THE
11 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
12 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR ITS
13 METABOLITE, WHICH HAS NOT BEEN MEDICALLY PRESCRIBED FOR THE
14 INDIVIDUAL COMMITS A SUMMARY OFFENSE AND SHALL, UPON
15 CONVICTION, BE SENTENCED TO PAY A FINE OF \$1,000 AND TO
16 UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN 90 DAYS.

17 (B) TAMPERING WITH AN INTERLOCK SYSTEM.--A PERSON THAT
18 TAMPERS WITH AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW
19 COMMITS A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE
20 SENTENCED TO PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN
21 \$1,000 AND TO UNDERGO IMPRISONMENT FOR NOT MORE THAN 90 DAYS.
22 THE TERM "TAMPERING" IN ADDITION TO ANY PHYSICAL ACT WHICH IS
23 INTENDED TO ALTER OR INTERFERE WITH THE PROPER FUNCTIONING OF AN
24 IGNITION INTERLOCK DEVICE REQUIRED BY LAW SHALL INCLUDE
25 ATTEMPTING TO CIRCUMVENT OR BYPASS OR CIRCUMVENTING OR BYPASSING
26 AN IGNITION INTERLOCK DEVICE BY:

27 (1) MEANS OF USING ANOTHER INDIVIDUAL TO PROVIDE A
28 BREATH SAMPLE; OR

29 (2) PROVIDING A BREATH SAMPLE FOR THE PURPOSE OF
30 BYPASSING AN IGNITION INTERLOCK DEVICE REQUIRED BY LAW.

1 (C) REVOCATION OF OPERATING PRIVILEGE.--UPON RECEIVING A
2 CERTIFIED RECORD OF THE CONVICTION OF AN INDIVIDUAL UNDER THIS
3 SECTION, THE DEPARTMENT SHALL REVOKE THE INDIVIDUAL'S OPERATING
4 PRIVILEGE FOR A PERIOD OF ONE YEAR.

5 § 3809. RESTRICTION ON ALCOHOLIC BEVERAGES.

6 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B), AN
7 INDIVIDUAL WHO IS AN OPERATOR OR AN OCCUPANT IN A MOTOR VEHICLE
8 MAY NOT BE IN POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER
9 OR CONSUME A CONTROLLED SUBSTANCE AS DEFINED IN THE ACT OF APRIL
10 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,
11 DRUG, DEVICE AND COSMETIC ACT, OR AN ALCOHOLIC BEVERAGE IN A
12 MOTOR VEHICLE WHILE THE MOTOR VEHICLE IS LOCATED ON A HIGHWAY IN
13 THIS COMMONWEALTH.

14 (B) EXCEPTION.--THIS SECTION DOES NOT PROHIBIT POSSESSION OR
15 CONSUMPTION BY ANY OF THE FOLLOWING:

16 (1) A PASSENGER IN THE PASSENGER AREA OF A MOTOR VEHICLE
17 DESIGNED, MAINTAINED OR USED PRIMARILY FOR THE LAWFUL
18 TRANSPORTATION OF PERSONS FOR COMPENSATION. THIS PARAGRAPH
19 INCLUDES BUSES, TAXIS AND LIMOUSINES.

20 (2) AN INDIVIDUAL IN THE LIVING QUARTERS OF A HOUSE
21 COACH OR HOUSE TRAILER.

22 (C) PENALTY.--AN INDIVIDUAL WHO VIOLATES THIS SECTION
23 COMMITS A SUMMARY OFFENSE.

24 § 3810. AUTHORIZED USE NOT A DEFENSE.

25 THE FACT THAT A PERSON CHARGED WITH VIOLATING THIS CHAPTER IS
26 OR HAS BEEN LEGALLY ENTITLED TO USE ALCOHOL OR CONTROLLED
27 SUBSTANCES IS NOT A DEFENSE TO A CHARGE OF VIOLATING THIS
28 CHAPTER.

29 § 3811. CERTAIN ARRESTS AUTHORIZED.

30 (A) WARRANT NOT REQUIRED.--IN ADDITION TO ANY OTHER POWERS

1 OF ARREST, A POLICE OFFICER IS AUTHORIZED TO ARREST AN
2 INDIVIDUAL WITHOUT A WARRANT IF THE OFFICER HAS PROBABLE CAUSE
3 TO BELIEVE THAT THE INDIVIDUAL HAS VIOLATED SECTION 3802
4 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
5 SUBSTANCE), REGARDLESS OF WHETHER THE ALLEGED VIOLATION WAS
6 COMMITTED IN THE PRESENCE OF THE POLICE OFFICER.

7 (B) TERRITORY.--THE AUTHORITY UNDER SUBSECTION (A) EXTENDS
8 TO ANY HOSPITAL OR OTHER MEDICAL TREATMENT FACILITY LOCATED
9 BEYOND THE TERRITORIAL LIMITS OF THE POLICE OFFICER'S POLITICAL
10 SUBDIVISION AT WHICH AN INDIVIDUAL TO BE ARRESTED IS FOUND OR
11 WAS TAKEN OR REMOVED FOR PURPOSES OF EMERGENCY TREATMENT,
12 EXAMINATION OR EVALUATION AS LONG AS THERE IS PROBABLE CAUSE TO
13 BELIEVE THAT THE VIOLATION OF SECTION 3802 OCCURRED WITHIN THE
14 POLICE OFFICER'S POLITICAL SUBDIVISION.

15 § 3812. PRELIMINARY HEARING OR ARRAIGNMENT.

16 THE PRESIDING JUDICIAL OFFICER AT THE PRELIMINARY HEARING OR
17 PRELIMINARY ARRAIGNMENT RELATING TO A CHARGE OF A VIOLATION OF
18 SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
19 CONTROLLED SUBSTANCE) SHALL NOT REDUCE OR MODIFY THE ORIGINAL
20 CHARGES WITHOUT THE CONSENT OF THE ATTORNEY FOR THE
21 COMMONWEALTH.

22 § 3813. WORK RELEASE.

23 IN ANY CASE IN WHICH AN INDIVIDUAL IS SENTENCED TO A PERIOD
24 OF IMPRISONMENT AS A RESULT OF A CONVICTION FOR VIOLATING A
25 PROVISION OF THIS CHAPTER, THE JUDICIAL OFFICER IMPOSING THE
26 SENTENCE SHALL CONSIDER ASSIGNING THAT INDIVIDUAL TO A DAYTIME
27 WORK RELEASE PROGRAM. ANY WORK RELEASE PROGRAM PERMITTED UNDER
28 THIS SECTION SHALL BE CERTIFIED BY THE DRUG AND ALCOHOL
29 TREATMENT PROGRAM ADMINISTRATION AS BEING CONSISTENT WITH ANY
30 DRUG AND ALCOHOL TREATMENT REQUIREMENTS IMPOSED UNDER SECTION

1 3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS).

2 § 3814. DRUG AND ALCOHOL ASSESSMENTS.

3 IF A DEFENDANT IS CONVICTED OR PLEADS GUILTY OR NO CONTEST TO
4 A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE
5 OF ALCOHOL OR CONTROLLED SUBSTANCE), THE FOLLOWING APPLY PRIOR
6 TO SENTENCING:

7 (1) THE DEFENDANT SHALL BE EVALUATED UNDER SECTION
8 3816(A) (RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE
9 OFFENDERS) AND ANY OTHER ADDITIONAL EVALUATION TECHNIQUES
10 DEEMED APPROPRIATE BY THE COURT TO DETERMINE THE EXTENT OF
11 THE DEFENDANT'S INVOLVEMENT WITH ALCOHOL OR OTHER DRUG AND TO
12 ASSIST THE COURT IN DETERMINING WHAT TYPE OF SENTENCE WOULD
13 BENEFIT THE DEFENDANT AND THE PUBLIC.

14 (2) THE DEFENDANT SHALL BE SUBJECT TO A FULL ASSESSMENT
15 FOR ALCOHOL AND DRUG ADDICTION IF ALL OF THE FOLLOWING
16 SUBPARAGRAPHS APPLY:

17 (I) THE DEFENDANT, WITHIN TEN YEARS PRIOR TO THE
18 OFFENSE FOR WHICH SENTENCE IS BEING IMPOSED, HAS BEEN
19 SENTENCED FOR AN OFFENSE UNDER:

20 (A) FORMER SECTION 3731 (RELATING TO DRIVING
21 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);

22 (B) SECTION 3802; OR

23 (C) AN EQUIVALENT OFFENSE IN ANOTHER
24 JURISDICTION.

25 (II) EITHER:

26 (A) THE EVALUATION UNDER PARAGRAPH (1) INDICATES
27 THERE IS A NEED FOR COUNSELING OR TREATMENT; OR

28 (B) THE DEFENDANT'S BLOOD ALCOHOL CONTENT AT THE
29 TIME OF THE OFFENSE WAS AT LEAST .16%.

30 (3) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL BE

1 CONDUCTED BY ONE OF THE FOLLOWING:

2 (I) THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.

3 (II) THE COUNTY AGENCY WITH RESPONSIBILITY FOR
4 COUNTY DRUG AND ALCOHOL PROGRAMS OR ITS DESIGNEE.

5 (III) THE CLINICAL PERSONNEL OF A FACILITY LICENSED
6 BY THE DEPARTMENT OF HEALTH FOR THE CONDUCT OF DRUG AND
7 ALCOHOL ADDICTION TREATMENT PROGRAMS.

8 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
9 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
10 ALL OF THE FOLLOWING:

11 (I) LENGTH OF STAY.

12 (II) LEVELS OF CARE.

13 (III) FOLLOW-UP CARE AND MONITORING.

14 § 3815. MANDATORY SENTENCING.

15 (A) COUNTY SUPERVISION.--NOTWITHSTANDING THE LENGTH OF ANY
16 MAXIMUM TERM OF IMPRISONMENT REQUIRED BY SECTION 3804 (RELATING
17 TO PENALTIES), THE SENTENCING JUDGE MAY SUBJECT THE OFFENDER TO
18 THE SUPERVISION OF THE COUNTY PAROLE SYSTEM.

19 (B) PAROLE.--

20 (1) AN OFFENDER WHO IS DETERMINED PURSUANT TO SECTION
21 3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS) TO BE IN NEED
22 OF DRUG AND ALCOHOL TREATMENT SHALL BE ELIGIBLE FOR PAROLE IN
23 ACCORDANCE WITH THE TERMS AND CONDITIONS PRESCRIBED IN THIS
24 SECTION FOLLOWING THE EXPIRATION OF THE OFFENDER'S MANDATORY
25 MINIMUM TERM OF IMPRISONMENT.

26 (2) THE FOLLOWING SHALL BE CONDITIONS OF PAROLE:

27 (I) IF THE OFFENDER IS NOT DETERMINED UNDER THE
28 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
29 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST REFRAIN
30 FROM:

1 (A) THE USE OF ILLEGAL CONTROLLED SUBSTANCES;
2 AND

3 (B) THE ABUSE OF PRESCRIPTION DRUGS, OVER-THE-
4 COUNTER DRUGS OR ANY OTHER SUBSTANCES.

5 (II) IF THE OFFENDER IS DETERMINED UNDER THE
6 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
7 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST DO ALL OF
8 THE FOLLOWING:

9 (A) REFRAIN FROM:

10 (I) THE USE OF ALCOHOL OR ILLEGAL CONTROLLED
11 SUBSTANCES; AND

12 (II) THE ABUSE OF PRESCRIPTION DRUGS, OVER-
13 THE-COUNTER DRUGS OR ANY OTHER SUBSTANCES.

14 (B) PARTICIPATE IN AND COOPERATE WITH DRUG AND
15 ALCOHOL ADDICTION TREATMENT UNDER SUBSECTION (C).

16 (C) TREATMENT.--

17 (1) TREATMENT MUST CONFORM TO ASSESSMENT RECOMMENDATIONS
18 MADE UNDER SECTION 3814.

19 (2) TREATMENT MUST BE CONDUCTED BY A DRUG AND ALCOHOL
20 ADDICTION TREATMENT PROGRAM LICENSED BY THE DEPARTMENT OF
21 HEALTH.

22 (3) THE TREATMENT PROGRAM SHALL REPORT PERIODICALLY TO
23 THE ASSIGNED PAROLE OFFICER ON THE OFFENDER'S PROGRESS IN THE
24 TREATMENT PROGRAM. THE TREATMENT PROGRAM SHALL PROMPTLY
25 NOTIFY THE PAROLE OFFICER IF THE OFFENDER:

26 (I) FAILS TO COMPLY WITH PROGRAM RULES AND TREATMENT
27 EXPECTATIONS;

28 (II) REFUSES TO CONSTRUCTIVELY ENGAGE IN THE
29 TREATMENT PROCESS; OR

30 (III) WITHOUT AUTHORIZATION TERMINATES PARTICIPATION

1 IN THE TREATMENT PROGRAM.

2 (4) UPON NOTIFICATION UNDER PARAGRAPH (3), THE PAROLE
3 OFFICER SHALL REPORT THE OFFENDER'S ACTIONS TO THE PAROLE
4 AUTHORITY AND TO THE DEPARTMENT FOR COMPLIANCE WITH SECTION
5 1553(E) (RELATING TO OCCUPATIONAL LIMITED LICENSE). THE
6 PAROLE AUTHORITY SHALL SCHEDULE A REVOCATION HEARING TO
7 CONSIDER RECOMMENDATIONS OF THE PAROLE OFFICER AND THE
8 TREATMENT PROGRAM.

9 (5) NOTHING IN THIS SUBSECTION SHALL PREVENT A TREATMENT
10 PROGRAM FROM REFUSING TO ACCEPT AN OFFENDER IF THE PROGRAM
11 ADMINISTRATOR DEEMS THE OFFENDER TO BE INAPPROPRIATE FOR
12 ADMISSION TO THE PROGRAM. A TREATMENT PROGRAM SHALL RETAIN
13 THE RIGHT TO IMMEDIATELY DISCHARGE INTO THE CUSTODY OF THE
14 ASSIGNED PAROLE OFFICER AN OFFENDER WHO FAILS TO COMPLY WITH
15 PROGRAM RULES AND TREATMENT EXPECTATIONS OR REFUSES TO
16 CONSTRUCTIVELY ENGAGE IN THE TREATMENT PROCESS.

17 (D) ENFORCEMENT.--

18 (1) THIS SUBSECTION APPLIES TO AN OFFENDER ORDERED TO
19 PARTICIPATE IN A TREATMENT PROGRAM UNDER SUBSECTION

20 (B)(2)(II) WHO:

21 (I) FAILS TO COMPLY WITH PROGRAM RULES AND TREATMENT
22 EXPECTATIONS;

23 (II) REFUSES TO CONSTRUCTIVELY ENGAGE IN THE
24 TREATMENT PROCESS; OR

25 (III) TERMINATES PARTICIPATION IN THE TREATMENT
26 PROGRAM WITHOUT AUTHORIZATION.

27 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL OF
28 THE FOLLOWING APPLY TO AN OFFENDER UNDER PARAGRAPH (1):

29 (I) THE OFFENDER'S PAROLE, PRERELEASE, WORK RELEASE
30 OR ANY OTHER RELEASE STATUS SHALL BE REVOKED.

1 (II) THE OFFENDER SHALL BE INELIGIBLE FOR PAROLE,
2 PRERELEASE, WORK RELEASE OR ANY OTHER RELEASE FROM THE
3 CORRECTIONAL FACILITY PRIOR TO THE EXPIRATION OF THE
4 OFFENDER'S MAXIMUM TERM UNLESS THE OFFENDER IS PERMITTED
5 TO BE READMITTED TO A TREATMENT PROGRAM.

6 (3) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
7 GRANT A LEGAL RIGHT TO PAROLE TO AN OFFENDER PREVIOUSLY
8 INELIGIBLE FOR PAROLE, ON THE GROUNDS THAT THE OFFENDER IS
9 CURRENTLY PREPARED TO PARTICIPATE IN, COMPLY WITH AND
10 CONSTRUCTIVELY ENGAGE IN THE TREATMENT PROCESS. UNDER SUCH
11 CIRCUMSTANCES, PAROLE OR REPAROLE OF THE OFFENDER SHALL BE AT
12 THE PAROLE AUTHORITY'S DISCRETION.

13 (E) FOLLOW-UP.--AFTER AN OFFENDER HAS COMPLETED THE
14 TREATMENT PROGRAM UNDER SUBSECTION (C), THE PAROLE OFFICER SHALL
15 TAKE REASONABLE STEPS TO ENSURE THAT THE OFFENDER DOES NOT ABUSE
16 ALCOHOL, USE ILLEGAL CONTROLLED SUBSTANCES OR ABUSE PRESCRIPTION
17 DRUGS, OVER-THE-COUNTER DRUGS OR ANY OTHER SUCH SUBSTANCES.
18 THESE REASONABLE STEPS INCLUDE REQUIRING CHEMICAL TESTING AND
19 PERIODIC REASSESSMENT OF THE OFFENDER BY THE TREATMENT PROGRAM.

20 (F) FEES.--

21 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PAROLE
22 AUTHORITY SHALL IMPOSE UPON AN OFFENDER SUBJECT TO THIS
23 SECTION REASONABLE FEES TO COVER THE COST OF ANY OF THE
24 FOLLOWING:

25 (I) CHEMICAL TESTING OF THE OFFENDER REQUIRED UNDER
26 THIS SECTION.

27 (II) AN ASSESSMENT OF THE OFFENDER REQUIRED UNDER
28 THIS SECTION.

29 (III) DRUG OR ALCOHOL TREATMENT PROVIDED IN
30 ACCORDANCE WITH THE ASSESSMENT.

1 (2) IF THE PAROLE AUTHORITY FINDS THE OFFENDER TO BE
2 UNABLE TO PAY THE FULL AMOUNT OF THE FEES REQUIRED BY
3 PARAGRAPH (1) AND SECTION 1541(D) (RELATING TO PERIOD OF
4 DISQUALIFICATION, REVOCATION OR SUSPENSION OF OPERATING
5 PRIVILEGE), IT SHALL REQUIRE THE OFFENDER TO PAY AS MUCH OF
6 THE FEE AS IS CONSISTENT WITH THE OFFENDER'S ABILITY TO PAY
7 AND SHALL DIRECT THE ASSIGNED PAROLE OFFICER TO ESTABLISH A
8 REASONABLE PAYMENT SCHEDULE FOR THE OFFENDER TO PAY AS MUCH
9 OF THE REMAINING FEES AS IS CONSISTENT WITH THE OFFENDER'S
10 ABILITY TO PAY.

11 (G) INSURANCE.--IF AN INDIVIDUAL WHO IS A SUBSCRIBER TO A
12 HEALTH INSURANCE, HEALTH MAINTENANCE ORGANIZATION OR OTHER
13 HEALTH PLAN THAT IS DOING BUSINESS IN THIS COMMONWEALTH, THE
14 INDIVIDUAL MAY NOT BE DEPRIVED OF ALCOHOL AND OTHER DRUG ABUSE
15 AND ADDICTION TREATMENT OR COVERAGE WITHIN THE SCOPE OF THAT
16 PLAN DUE TO THE IDENTIFICATION OF AN ALCOHOL OR OTHER DRUG
17 PROBLEM WHICH OCCURS AS A RESULT OF AN ASSESSMENT UNDER THIS
18 SECTION.

19 (H) ADDITIONAL FUNDING.--IN ORDER TO SUPPORT AND AUGMENT THE
20 DIAGNOSTIC ASSESSMENT AND TREATMENT SERVICES PROVIDED UNDER THIS
21 SECTION, THE DEPARTMENT OF HEALTH, THE DEPARTMENT AND THE
22 PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY SHALL SEEK ALL
23 AVAILABLE FEDERAL FUNDING, INCLUDING FUNDS AVAILABLE THROUGH THE
24 UNITED STATES NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND
25 THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

26 § 3816. REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS.

27 (A) EVALUATION USING COURT REPORTING NETWORK.--IN ADDITION
28 TO ANY OTHER REQUIREMENTS OF THE COURT, EVERY PERSON CONVICTED
29 OF A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER
30 INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND EVERY PERSON

1 OFFERED ACCELERATED REHABILITATIVE DISPOSITION AS A RESULT OF A
2 CHARGE OF A VIOLATION OF SECTION 3802 SHALL, PRIOR TO SENTENCING
3 OR RECEIVING ACCELERATED REHABILITATIVE DISPOSITION OR OTHER
4 PRELIMINARY DISPOSITION, BE EVALUATED USING COURT REPORTING
5 NETWORK INSTRUMENTS ISSUED BY THE DEPARTMENT AND ANY OTHER
6 ADDITIONAL EVALUATION TECHNIQUES DEEMED APPROPRIATE BY THE COURT
7 TO DETERMINE THE EXTENT OF THE PERSON'S INVOLVEMENT WITH ALCOHOL
8 OR CONTROLLED SUBSTANCES AND TO ASSIST THE COURT IN DETERMINING
9 WHAT SENTENCING, PROBATION OR CONDITIONS OF ACCELERATED
10 REHABILITATIVE DISPOSITION WOULD BENEFIT THE PERSON OR THE
11 PUBLIC.

12 (B) COURT-ORDERED INTERVENTION OR TREATMENT.--A RECORD SHALL
13 BE SUBMITTED TO THE DEPARTMENT AS TO WHETHER THE COURT DID OR
14 DID NOT ORDER A DEFENDANT TO ATTEND DRUG AND ALCOHOL TREATMENT
15 PURSUANT TO THE REQUIREMENTS OF SECTIONS 3804 (RELATING TO
16 PENALTIES), 3814 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS) AND
17 3815 (RELATING TO MANDATORY SENTENCING). IF THE COURT ORDERS
18 TREATMENT, A REPORT SHALL BE FORWARDED TO THE DEPARTMENT AS TO
19 WHETHER THE DEFENDANT SUCCESSFULLY COMPLETED THE PROGRAM. IF A
20 DEFENDANT FAILS TO SUCCESSFULLY COMPLETE A PROGRAM OF TREATMENT
21 AS ORDERED BY THE COURT, THE SUSPENSION SHALL REMAIN IN EFFECT
22 UNTIL THE DEPARTMENT IS NOTIFIED BY THE COURT THAT THE DEFENDANT
23 HAS SUCCESSFULLY COMPLETED TREATMENT AND THE DEFENDANT IS
24 OTHERWISE ELIGIBLE FOR RESTORATION OF HIS OPERATING PRIVILEGE.
25 IN ORDER TO IMPLEMENT THE RECORDKEEPING REQUIREMENTS OF THIS
26 SECTION, THE DEPARTMENT AND THE COURT SHALL WORK TOGETHER TO
27 EXCHANGE PERTINENT INFORMATION ABOUT A DEFENDANT'S CASE,
28 INCLUDING ATTENDANCE AND COMPLETION OF TREATMENT OR FAILURE TO
29 COMPLETE TREATMENT.

30 § 3817. REPORTING REQUIREMENTS FOR OFFENSES.

1 (A) REQUIREMENT.--THE DEPARTMENT SHALL MAKE AN ANNUAL REPORT
2 ON THE ADMINISTRATION OF THIS CHAPTER. THE DEPARTMENT, THE
3 COURTS AND THE PENNSYLVANIA SENTENCING COMMISSION SHALL WORK
4 TOGETHER TO EXCHANGE PERTINENT INFORMATION NECESSARY TO COMPLETE
5 THIS REPORT.

6 (B) CONTENTS.--THE REPORT SHALL INCLUDE:

7 (1) THE NUMBER OF OFFENDERS.

8 (2) THE NUMBER OF OFFENDERS SUBJECT TO SECTION 3815
9 (RELATING TO MANDATORY SENTENCING).

10 (3) THE NUMBER OF OFFENDERS SENT TO TREATMENT FOR
11 ALCOHOL AND DRUG PROBLEMS AND ADDICTION.

12 (4) THE NAMES OF THE TREATMENT FACILITIES PROVIDING
13 TREATMENT AND THE LEVEL OF CARE AND LENGTH OF STAY IN
14 TREATMENT.

15 (5) THE NUMBER OF OFFENDERS SUCCESSFULLY COMPLETING
16 TREATMENT.

17 (6) THE NUMBER OF SUSPENDED LICENSES RETURNED AFTER
18 COMPLETION OF TREATMENT.

19 (7) THE NUMBER OF FIRST, SECOND, THIRD AND SUBSEQUENT
20 OFFENDERS.

21 (C) RECIPIENTS.--THE ANNUAL REPORT SHALL BE SUBMITTED TO THE
22 JUDICIARY COMMITTEE, PUBLIC HEALTH AND WELFARE COMMITTEE AND
23 TRANSPORTATION COMMITTEE OF THE SENATE; THE HEALTH AND HUMAN
24 SERVICES COMMITTEE, JUDICIARY COMMITTEE AND TRANSPORTATION
25 COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND THE BUREAU OF
26 DRUG AND ALCOHOL PROGRAMS. THE REPORT SHALL BE MADE AVAILABLE TO
27 THE PUBLIC.

28 SECTION 19. SECTIONS 6308(B) AND 6506(A)(7) OF TITLE 75 ARE
29 AMENDED TO READ:

30 § 6308. INVESTIGATION BY POLICE OFFICERS.

1 * * *

2 (B) AUTHORITY OF POLICE OFFICER.--WHENEVER A POLICE OFFICER
3 IS ENGAGED IN A SYSTEMATIC PROGRAM OF CHECKING VEHICLES OR
4 DRIVERS OR HAS [ARTICULABLE AND REASONABLE GROUNDS TO SUSPECT A
5 VIOLATION OF THIS TITLE,] REASONABLE SUSPICION THAT A VIOLATION
6 OF THIS TITLE IS OCCURRING OR HAS OCCURRED, HE MAY STOP A
7 VEHICLE, UPON REQUEST OR SIGNAL, FOR THE PURPOSE OF CHECKING THE
8 VEHICLE'S REGISTRATION, PROOF OF FINANCIAL RESPONSIBILITY,
9 VEHICLE IDENTIFICATION NUMBER OR ENGINE NUMBER OR THE DRIVER'S
10 LICENSE, OR TO SECURE SUCH OTHER INFORMATION AS THE OFFICER MAY
11 REASONABLY BELIEVE TO BE NECESSARY TO ENFORCE THE PROVISIONS OF
12 THIS TITLE.

13 * * *

14 § 6506. SURCHARGE.

15 (A) LEVY AND IMPOSITION.--IN ADDITION TO ANY FINES, FEES OR
16 PENALTIES LEVIED OR IMPOSED AS PROVIDED BY LAW, UNDER THIS TITLE
17 OR ANY OTHER STATUTE, A SURCHARGE SHALL BE LEVIED FOR
18 DISPOSITION IN ACCORDANCE WITH SUBSECTION (B) AS FOLLOWS:

19 * * *

20 (7) UPON CONVICTION OF OFFENSES UNDER SECTION [3731]
21 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
22 CONTROLLED SUBSTANCE), OR UPON ADMISSION TO PROGRAMS FOR
23 ACCELERATED REHABILITATIVE DISPOSITION FOR OFFENSES
24 ENUMERATED IN SECTION [3731] 3802, A SURCHARGE, RESPECTIVELY,
25 OF:

26 (I) \$50 FOR THE FIRST OFFENSE.

27 (II) \$100 FOR THE SECOND OFFENSE.

28 (III) \$200 FOR THE THIRD OFFENSE.

29 (IV) \$300 FOR THE FOURTH AND SUBSEQUENT OFFENSES.

30 * * *

1 SECTION 20. THE ADDITION OF 75 PA.C.S. §§ 3814 AND 3815
2 SHALL APPLY AS FOLLOWS:

3 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2) OR (3), AFTER
4 JUNE 30, 2009, FOR AN OFFENDER SENTENCED UNDER THIS CHAPTER.

5 (2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, FOR
6 AN OFFENDER SENTENCED FOR A MISDEMEANOR OF THE FIRST DEGREE.

7 (3) AFTER JUNE 30, 2006, FOR AN OFFENDER SENTENCED
8 PURSUANT TO SECTION 3804(A)(3), (B)(2) AND (C)(1).

9 SECTION 21. THE DEPARTMENT OF TRANSPORTATION HAS THE
10 FOLLOWING DUTIES:

11 (1) IN ORDER TO IMPLEMENT THE ADDITION OF 75 PA.C.S. §
12 3805, THE FOLLOWING SHALL APPLY:

13 (I) THE DEPARTMENT SHALL ADOPT AND USE GUIDELINES,
14 WHICH SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.
15 THE GUIDELINES SHALL NOT BE SUBJECT TO REVIEW UNDER
16 SECTION 205 OF THE ACT OF JULY 31, 1968 (P.L.769,
17 NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW,
18 AND THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS
19 THE REGULATORY REVIEW ACT.

20 (II) BY SEPTEMBER 30, 2004, THE DEPARTMENT SHALL, IN
21 ACCORDANCE WITH LAW, PROMULGATE REGULATIONS TO REPLACE
22 THE GUIDELINES UNDER SUBPARAGRAPH (I).

23 (III) THE GUIDELINES UNDER SUBPARAGRAPH (I) SHALL:

24 (A) TAKE EFFECT SEPTEMBER 30, 2003, OR

25 IMMEDIATELY, WHICHEVER IS LATER; AND

26 (B) EXPIRE ON THE EARLIER OF:

27 (I) THE EFFECTIVE DATE OF REGULATIONS UNDER
28 SUBPARAGRAPH (II); OR

29 (II) SEPTEMBER 30, 2005.

30 (2) BY OCTOBER 1, 2004, THE DEPARTMENT SHALL PROMULGATE

1 REGULATIONS TO IMPLEMENT 75 PA.C.S. § 1549(B).

2 SECTION 22. THE ADDITION OF 75 PA.C.S CH. 38 IS A
3 CONTINUATION OF FORMER 75 PA.C.S. § 3731. THE REPEAL OF 75
4 PA.C.S. § 3731 SHALL NOT AFFECT OFFENSES COMMITTED NOR CIVIL AND
5 ADMINISTRATIVE PENALTIES IMPOSED PRIOR TO THE EFFECTIVE DATE OF
6 THIS SECTION.

7 SECTION 23. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

8 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
9 IMMEDIATELY:

10 (I) SECTION 21 OF THIS ACT.

11 (II) THIS SECTION.

12 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
13 SEPTEMBER 30, 2003, OR IMMEDIATELY, WHICHEVER IS LATER.