
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, C. WILLIAMS AND ORIE, FEBRUARY 3, 2003

SENATE AMENDMENTS TO HOUSE AMENDMENTS, JULY 28, 2003

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses), 30 (Fish), 34 (Game), <—~~
2 ~~42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of~~
3 ~~the Pennsylvania Consolidated Statutes, further providing for~~
4 ~~impairment due to alcohol or controlled substances, for~~
5 ~~Department of Transportation records, for investigation by~~
6 ~~police officers and for certain surcharges; and making~~
7 ~~editorial changes.~~

8 AMENDING TITLES 18 (CRIMES AND OFFENSES), 42 (JUDICIARY AND <—
9 JUDICIAL PROCEDURE) AND 75 (VEHICLES) OF THE PENNSYLVANIA
10 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR CHEMICAL TESTING
11 TO DETERMINE AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE AND
12 FOR REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS;
13 IMPOSING PENALTIES FOR VIOLATION OF IGNITION INTERLOCK SYSTEM
14 PROVISIONS; AND FURTHER PROVIDING FOR OCCUPATIONAL LIMITED
15 LICENSE AND FOR DRIVING UNDER INFLUENCE OF ALCOHOL OR
16 CONTROLLED SUBSTANCE.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 ~~Section 1. Sections 6105(c)(3) and 7508.1(b) and (c) of <—~~
20 ~~Title 18 of the Pennsylvania Consolidated Statutes are amended~~
21 ~~to read:~~

22 ~~§ 6105. Persons not to possess, use, manufacture, control, sell~~
23 ~~or transfer firearms.~~

24 * * *

1 ~~(c) Other persons. In addition to any person who has been~~
2 ~~convicted of any offense listed under subsection (b), the~~
3 ~~following persons shall be subject to the prohibition of~~
4 ~~subsection (a):~~

5 ~~* * *~~

6 ~~(3) A person who has been convicted of driving under the~~
7 ~~influence of alcohol or controlled substance as provided in~~
8 ~~75 Pa.C.S. § [3731] 3802 (relating to driving under influence~~
9 ~~of alcohol or controlled substance) on three or more separate~~
10 ~~occasions within a five year period. For the purposes of this~~
11 ~~paragraph only, the prohibition of subsection (a) shall only~~
12 ~~apply to transfers or purchases of firearms after the third~~
13 ~~conviction.~~

14 ~~* * *~~

15 ~~§ 7508.1. Substance Abuse Education and Demand Reduction Fund.~~

16 ~~* * *~~

17 ~~(b) Imposition. Unless the court finds that undue hardship~~
18 ~~would result, a mandatory cost of \$100, which shall be in~~
19 ~~addition to any other costs imposed pursuant to statutory~~
20 ~~authority, shall automatically be assessed on any individual~~
21 ~~convicted, adjudicated delinquent or granted Accelerated~~
22 ~~Rehabilitative Disposition or any individual who pleads guilty~~
23 ~~or nolo contendere for a violation of the act of April 14, 1972~~
24 ~~(P.L.233, No.64), known as The Controlled Substance, Drug,~~
25 ~~Device and Cosmetic Act, or a violation of 75 Pa.C.S. § [3731]~~
26 ~~3802 (relating to driving under influence of alcohol or~~
27 ~~controlled substance).~~

28 ~~(c) Additional assessment. In addition to the assessment~~
29 ~~required by subsection (b), a person convicted of or adjudicated~~
30 ~~delinquent for a violation of 75 Pa.C.S. § [3731] 3802 shall be~~

1 ~~assessed \$200 where the amount of alcohol by weight in the blood~~
2 ~~of the person is equal to or greater than [.15%] .16% at the~~
3 ~~time a chemical test is performed on a sample of the person's~~
4 ~~breath, blood or urine. For the purposes of this subsection, the~~
5 ~~sample of the person's blood, breath or urine shall be taken~~
6 ~~within [two] three hours after the person is placed under~~
7 ~~arrest.~~

8 * * *

9 ~~Section 2. Section 7514 of Title 18 is repealed.~~

10 ~~Section 3. Section 5502(a)(4) and (a.1)(1) of Title 30 are~~
11 ~~amended to read:~~

12 ~~§ 5502. Operating watercraft under influence of alcohol or~~
13 ~~controlled substance.~~

14 ~~(a) General rule. No person shall operate or be in actual~~
15 ~~physical control of the movement of a watercraft upon, in or~~
16 ~~through the waters of this Commonwealth:~~

17 * * *

18 ~~(4) while the amount of alcohol by weight in the blood~~
19 ~~of:~~

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

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

22 ~~(a.1) Prima facie evidence.—~~

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

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

1 ~~(ii) a minor had 0.02% or more by weight of alcohol~~
2 ~~in his or her blood at the time of operating or being in~~
3 ~~actual physical control of the movement of a watercraft~~
4 ~~if the amount of alcohol by weight in the blood of the~~
5 ~~minor is equal to or greater than 0.02% at the time a~~
6 ~~chemical test is performed on a sample of the person's~~
7 ~~breath, blood or urine.~~

8 ~~* * *~~

9 ~~Section 4. Sections 2501(a)(4) and (a.1)(1)(i) and (b) and~~
10 ~~2502(d)(2) and (3) of Title 34 are amended to read:~~

11 ~~§ 2501. Hunting or furtaking prohibited while under influence~~
12 ~~of alcohol or controlled substance.~~

13 ~~(a) General rule. It is unlawful to hunt or take game,~~
14 ~~furbearers or wildlife or aid, abet, assist or conspire to hunt~~
15 ~~or take game, furbearers or wildlife anywhere in this~~
16 ~~Commonwealth while in possession of a firearm of any kind or a~~
17 ~~bow and arrow if:~~

18 ~~* * *~~

19 ~~(4) the amount of alcohol by weight in the blood of:~~

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

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

22 ~~(a.1) Prima facie evidence.—~~

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

24 ~~(i) an adult had [0.10%] 0.08% or more by weight of~~
25 ~~alcohol in his or her blood at the time of hunting or~~
26 ~~taking of game, furbearers or wildlife or the aiding,~~
27 ~~abetting, assisting or conspiring to hunt or take game,~~
28 ~~furbearers or wildlife if the amount of alcohol by weight~~
29 ~~in the blood of the person is equal to or greater than~~
30 ~~[0.10%] 0.08% at the time a chemical test is performed on~~

1 ~~a sample of the person's breath, blood or urine; or~~

2 * * *

3 ~~(b) Penalty.—~~

4 ~~(1) A violation of the provisions of this section shall~~
5 ~~be a summary offense if the amount of alcohol by weight in~~
6 ~~the blood of the individual is at least 0.08% but less than~~
7 ~~0.10%.~~

8 ~~(2) A violation of the provisions of this section shall~~
9 ~~be a misdemeanor of the third degree if the amount of alcohol~~
10 ~~by weight in the blood of the individual is at least 0.10%.~~

11 ~~(3) In addition to any penalty, the violator shall be~~
12 ~~denied the right to hunt or trap in this Commonwealth, with~~
13 ~~or without a license, for a period of one year.~~

14 * * *

15 ~~§ 2502. Chemical test to determine amount of alcohol.~~

16 * * *

17 ~~(d) Presumptions from amount of alcohol. If chemical~~
18 ~~analysis of a person's breath, blood or urine shows:~~

19 * * *

20 ~~(2) That the amount of alcohol by weight in the blood of~~
21 ~~the person tested is in excess of 0.05% but less than [0.10%]~~
22 ~~0.08%, this fact shall not give rise to any presumption that~~
23 ~~the person tested was or was not under the influence of~~
24 ~~alcohol, but this fact may be considered with other competent~~
25 ~~evidence in determining whether the person was or was not~~
26 ~~under the influence of alcohol.~~

27 ~~(3) That the amount of alcohol by weight in the blood of~~
28 ~~the person tested is [0.10%] 0.08% or more, it shall be~~
29 ~~presumed that the defendant was under the influence of~~
30 ~~alcohol.~~

1 * * *

2 Section 5. ~~Sections 933(a)(1)(ii), 1515(a)(5), 1725.3(a),~~
3 ~~3571(b)(4) and 3573(b)(3) of Title 42 are amended to read:~~

4 ~~§ 933. Appeals from government agencies.~~

5 (a) ~~General rule. Except as otherwise prescribed by any~~
6 ~~general rule adopted pursuant to section 503 (relating to~~
7 ~~reassignment of matters), each court of common pleas shall have~~
8 ~~jurisdiction of appeals from final orders of government agencies~~
9 ~~in the following cases:~~

10 (1) ~~Appeals from Commonwealth agencies in the following~~
11 ~~cases:~~

12 * * *

13 (ii) ~~Determinations of the Department of~~
14 ~~Transportation appealable under the following provisions~~
15 ~~of Title 75 (relating to vehicles):~~

16 Section 1377 (relating to judicial review).

17 Section 1550 (relating to judicial review).

18 Section 4724(b) (relating to judicial review).

19 Section 7303(b) (relating to judicial review).

20 Section 7503(b) (relating to judicial review).

21 ~~Except as otherwise prescribed by general rules, the~~
22 ~~venue shall be in the county of the principal place of~~
23 ~~business of any salvor or messenger service, the location~~
24 ~~of any inspection station involved, the county where the~~
25 ~~arrest for a violation of 75 Pa.C.S. § [3731] 3802~~
26 ~~(relating to driving under influence of alcohol or~~
27 ~~controlled substance) was made in appeals involving the~~
28 ~~suspension of operating privileges under 75 Pa.C.S. §~~
29 ~~1547 (relating to chemical testing to determine amount of~~
30 ~~alcohol or controlled substance) or the residence of any~~

1 individual appellant where the venue is not otherwise
2 fixed by this sentence. In the case of a nonresident
3 individual venue, except as otherwise prescribed by
4 general rules, shall be in the county in which the
5 offense giving rise to the recall, cancellation,
6 suspension or revocation of operating privileges
7 occurred.

8 * * *

9 ~~§ 1515. Jurisdiction and venue.~~

10 (a) ~~Jurisdiction.~~ Except as otherwise prescribed by general
11 rule adopted pursuant to section 503 (relating to reassignment
12 of matters), district justices shall, under procedures
13 prescribed by general rule, have jurisdiction of all of the
14 following matters:

15 * * *

16 (5) ~~Offenses under 75 Pa.C.S. § [3731] 3802 (relating to~~
17 ~~driving under influence of alcohol or controlled substance),~~
18 ~~if the following criteria are met:~~

19 (i) ~~The offense is the first offense by the~~
20 ~~defendant under such provision in this Commonwealth.~~

21 (ii) ~~No personal injury (other than to the defendant~~
22 ~~for the immediate family of the defendant]) resulted from~~
23 ~~the offense.~~

24 (iii) ~~The defendant pleads guilty.~~

25 (iv) ~~No property damage in excess of \$500 other than~~
26 ~~to the defendant's property resulted from the violation.~~

27 (v) ~~The defendant is not subject to the provisions~~
28 ~~of Chapter 63 (relating to juvenile matters).~~

29 (vi) ~~The arresting authority shall cause to be~~
30 ~~transmitted a copy of the charge of any violation of 75~~

1 Pa.C.S. § ~~[3731] 3802~~ to the office of the clerk of the
2 court of common pleas within five days after the
3 preliminary arraignment.

4 In determining that the above criteria are met the district
5 justice shall rely on the certification of the arresting
6 authority. Certification that the criteria are met need not
7 be in writing. Within ten days after the disposition, the
8 district justice shall certify the disposition to the office
9 of the clerk of the court of common pleas in writing.

10 * * *

11 § ~~1725.3.~~ Criminal laboratory user fee.

12 (a) ~~Imposition.~~ A person who is placed on probation without
13 verdict pursuant to section 17 of the act of April 14, 1972
14 (P.L.233, No.64), known as The Controlled Substance, Drug,
15 Device and Cosmetic Act, or who receives Accelerated
16 Rehabilitative Disposition or who pleads guilty to or nolo
17 contendere to or who is convicted of a crime as defined in 18
18 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. §
19 ~~[3731] 3802~~ (relating to driving under influence of alcohol or
20 controlled substance) or 3735 (relating to homicide by vehicle
21 while driving under influence) or a violation of The Controlled
22 Substance, Drug, Device and Cosmetic Act shall, in addition to
23 any fines, penalties or costs, in every case where laboratory
24 services were required to prosecute the crime or violation, be
25 sentenced to pay a criminal laboratory user fee which shall
26 include, but not be limited to, the cost of sending a laboratory
27 technician to court proceedings.

28 * * *

29 § ~~3571.~~ Commonwealth portion of fines, etc.

30 * * *

1 ~~(b) Vehicle offenses.—~~

2 * * *

3 ~~(4) When prosecution under 75 Pa.C.S. § [3731] 3802~~
4 ~~(relating to driving under influence of alcohol or controlled~~
5 ~~substance) is the result of State Police action, 50% of all~~
6 ~~finances, forfeited recognizances and other forfeitures imposed,~~
7 ~~lost or forfeited shall be payable to the Commonwealth, for~~
8 ~~credit to the Motor License Fund, and 50% shall be payable to~~
9 ~~the county which shall be further divided as follows:~~

10 ~~(i) Fifty percent of the moneys received shall be~~
11 ~~allocated to the appropriate county authority which~~
12 ~~implements the county drug and alcohol program to be used~~
13 ~~solely for the purposes of aiding programs promoting drug~~
14 ~~abuse and alcoholism prevention, education, treatment and~~
15 ~~research. [Programs under this subparagraph include~~
16 ~~Project DARE (Drug and Alcohol Resistance Education).]~~

17 ~~(ii) Fifty percent of the moneys received shall be~~
18 ~~used for expenditures incurred for county jails, prisons,~~
19 ~~workhouses and detention centers.~~

20 * * *

21 ~~§ 3573. Municipal corporation portion of fines, etc.~~

22 * * *

23 ~~(b) Vehicle offenses.—~~

24 * * *

25 ~~(3) When prosecution under 75 Pa.C.S. § [3731] 3802~~
26 ~~(relating to driving under influence of alcohol or controlled~~
27 ~~substance) is the result of local police action, 50% of all~~
28 ~~finances, forfeited recognizances and other forfeitures imposed,~~
29 ~~lost or forfeited shall be payable to the municipal~~
30 ~~corporation under which the local police are organized, and~~

1 ~~50% shall be payable to the county which shall be further~~
2 ~~divided as follows:~~

3 ~~(i) Fifty percent of the moneys received shall be~~
4 ~~allocated to the appropriate county authority which~~
5 ~~implements the county drug and alcohol program to be used~~
6 ~~solely for the purposes of aiding programs promoting drug~~
7 ~~abuse and alcoholism prevention, education, treatment and~~
8 ~~research. Programs under this subparagraph include~~
9 ~~Project DARE (Drug and Alcohol Resistance Education).~~

10 ~~(ii) Fifty percent of the moneys received shall be~~
11 ~~used for expenditures incurred for county jails, prisons,~~
12 ~~workhouses and detention centers.~~

13 ~~* * *~~

14 ~~Section 6. Chapter 70 of Title 42 is repealed.~~

15 ~~Section 7. Section 9763(e) of Title 42 is amended to read:~~

16 ~~§ 9763. Sentence of intermediate punishment.~~

17 ~~* * *~~

18 ~~(c) Restriction.—~~

19 ~~(1) A defendant [convicted under] subject to 75 Pa.C.S.~~
20 ~~§ [3731(e) (relating to driving under influence of alcohol or~~
21 ~~controlled substance)] 3804 (relating to penalties) may only~~
22 ~~be sentenced to intermediate punishment:~~

23 ~~[(1) in a residential inpatient program or in a~~
24 ~~residential rehabilitative center; or~~

25 ~~(2) by house arrest or electronic surveillance combined~~
26 ~~with drug and alcohol treatment.]~~

27 ~~(i) for a first, second or third offense under 75~~
28 ~~Pa.C.S. Ch. 38 (relating to driving while impaired); and~~

29 ~~(ii) after undergoing an assessment under 75 Pa.C.S.~~
30 ~~§ 3814 (relating to drug and alcohol assessments).~~

1 ~~(2) If the defendant is determined to be in need of drug~~
2 ~~and alcohol treatment, the defendant may only be sentenced to~~
3 ~~intermediate punishment which includes participation in drug~~
4 ~~and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to~~
5 ~~mandatory sentencing). Such treatment may be combined with~~
6 ~~house arrest with electronic surveillance or a partial~~
7 ~~confinement program, such as work release, a work camp or a~~
8 ~~halfway facility.~~

9 ~~(3) If the defendant is determined not to be in need of~~
10 ~~drug and alcohol treatment, the defendant may only be~~
11 ~~sentenced to intermediate punishment:~~

12 ~~(i) by house arrest or electronic surveillance;~~

13 ~~(ii) partial confinement programs, such as work~~
14 ~~release, work camps and halfway facilities; or~~

15 ~~(iii) any combination of the programs set forth in~~
16 ~~this subsection.~~

17 * * *

18 Section 8. ~~Section 9804(b)(3) of Title 42 is amended and the~~
19 ~~subsection is amended by adding paragraphs to read:~~

20 ~~§ 9804. County intermediate punishment programs.~~

21 * * *

22 ~~(b) Eligibility.—~~

23 * * *

24 ~~{(3) Any person receiving a penalty imposed pursuant to~~
25 ~~75 Pa.C.S. § 1543(b) (relating to driving while operating~~
26 ~~privilege is suspended or revoked) or 3731(e) (relating to~~
27 ~~driving under influence of alcohol or controlled substance)~~
28 ~~may only be sentenced to intermediate punishment program in:~~

29 ~~(i) a residential inpatient program or a residential~~
30 ~~rehabilitative center;~~

1 ~~(ii) house arrest and electronic surveillance~~
2 ~~combined with drug and alcohol treatment; or~~

3 ~~(iii) partial confinement programs, such as work~~
4 ~~release, work camps and halfway facilities, combined with~~
5 ~~drug and alcohol treatment.]~~

6 ~~(4) (i) Any person receiving a penalty imposed pursuant~~
7 ~~to 75 Pa.C.S. § 1543(b) (relating to driving while~~
8 ~~operating privilege is suspended or revoked) or 3804~~
9 ~~(relating to penalties) shall undergo an assessment under~~
10 ~~75 Pa.C.S. § 3814 (relating to drug and alcohol~~
11 ~~assessments).~~

12 ~~(ii) If the defendant is determined to be in need of~~
13 ~~drug and alcohol treatment, a sentence to intermediate~~
14 ~~punishment shall include participation in drug and~~
15 ~~alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to~~
16 ~~mandatory sentencing). Such treatment may be combined~~
17 ~~with house arrest with electronic surveillance or a~~
18 ~~partial confinement program, such as work release, a work~~
19 ~~camp or a halfway facility.~~

20 ~~(iii) If the defendant is determined not to be in~~
21 ~~need of drug and alcohol treatment, the defendant may~~
22 ~~only be sentenced to intermediate punishment program in:~~

23 ~~(A) house arrest and electronic surveillance;~~

24 ~~(B) partial confinement programs, such as work~~
25 ~~release, work camps and halfway facilities; or~~

26 ~~(C) any combination of the programs set forth in~~
27 ~~this paragraph.~~

28 ~~(5) A defendant subject to 75 Pa.C.S. § 3804 (relating to~~
29 ~~penalties) may only be sentenced to intermediate punishment~~
30 ~~for a first, second or third offense under 75 Pa.C.S. Ch. 38~~

1 ~~(relating to driving while impaired).~~

2 Section 9. ~~Sections 1516(c) and (d) and 1532(b)(3) of Title~~
3 ~~75 are amended to read:~~

4 ~~§ 1516. Department records.~~

5 * * *

6 ~~(c) Dismissal of charges for violations. If a charge for~~
7 ~~violation of any of the provisions of this title against any~~
8 ~~person is dismissed where there have been no prior convictions~~
9 ~~by any court of competent jurisdiction, no record of the charge~~
10 ~~and dismissal shall be included in the driving record of the~~
11 ~~person. If the person has been previously convicted of the~~
12 ~~charge and suspension was imposed by the department, which~~
13 ~~suspension was either partially or fully served, the department~~
14 ~~may keep a record of the offense for the purpose of showing the~~
15 ~~suspension was imposed against the person[.], but the offense~~
16 ~~shall not be used for the purpose of calculating the requisite~~
17 ~~number of offenses under section 1542 (relating to revocation of~~
18 ~~habitual offender's license). In addition, the department may~~
19 ~~keep records of charges that have been filed with the courts in~~
20 ~~order to determine a person's eligibility for a probationary~~
21 ~~license under the provisions of section 1554(b)(3) (relating to~~
22 ~~probationary license). All records maintained pursuant to this~~
23 ~~subsection shall be maintained for administrative and law~~
24 ~~enforcement use only and shall not be released for any other~~
25 ~~purpose.~~

26 ~~(d) Updating driving record. Drivers wishing to have their~~
27 ~~record reviewed by the department may make such a request in~~
28 ~~order that the record be brought up to date. In updating~~
29 ~~records, the department shall include recalculation of~~
30 ~~suspension or revocation segments and the assignment and~~

~~crediting of any suspension or revocation time previously assigned or credited toward a suspension or revocation which resulted from a conviction which has been vacated, overturned, dismissed or withdrawn. Any fully or partially served suspension or revocation time may only be reassigned or credited toward a suspension or revocation segment processed on the driver's record as of the actual commencement date of the fully or partially served suspension or revocation time.~~

~~§ 1532.— Suspension of operating privilege.~~

~~* * *~~

~~(b) — Suspension.—~~

~~* * *~~

~~(3) — The department shall suspend the operating privilege of any driver for 12 months upon receiving a certified record of the driver's conviction of section [3731 (relating to driving under influence of alcohol or controlled substance) or] 3733 (relating to fleeing or attempting to elude police officer)[,] or a substantially similar [offenses] offense reported to the department under Article III of section 1581 (relating to Driver's License Compact), or an adjudication of delinquency based on section [3731 or] 3733. The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section [3731 or] 3733.~~

~~* * *~~

~~Section 10.— Section 1534(b) of Title 75 is amended and the section is amended by adding subsections to read:~~

~~§ 1534.— Notice of acceptance of Accelerated Rehabilitative Disposition.~~

1 * * *

2 ~~(b) Exception. If a person is arrested for any offense~~
3 ~~enumerated in section [3731] 3802 (relating to driving under~~
4 ~~influence of alcohol or controlled substance) and is offered and~~
5 ~~accepts Accelerated Rehabilitative Disposition under general~~
6 ~~rules, the court shall promptly notify the department. The~~
7 ~~department shall maintain a record of the acceptance of~~
8 ~~Accelerated Rehabilitative Disposition for a period of [seven]~~
9 ~~ten years from the date of notification. This record shall not~~
10 ~~be expunged by order of court[.] or prior to the expiration of~~
11 ~~the ten year period.~~

12 ~~(c) Expungement. Immediately following the expiration of~~
13 ~~the ten year period, the department shall expunge the record of~~
14 ~~the acceptance of Accelerated Rehabilitative Disposition. The~~
15 ~~Department shall not require an order of court to expunge the~~
16 ~~record.~~

17 ~~(d) Exceptions to expungement. The department shall not be~~
18 ~~required to expunge the record of acceptance of Accelerated~~
19 ~~Rehabilitative Disposition if:~~

- 20 ~~(1) during the ten year period, the department revokes~~
21 ~~the operating privileges of a person pursuant to section 1542~~
22 ~~(relating to revocation of habitual offender's license); or~~
23 ~~(2) the person was a commercial driver at the time of~~
24 ~~the violation causing the disposition.~~

25 Section 11. Sections 1541(a.1) and (d), 1542(b), 1543(b),
26 1545, 1547(b)(1) and (2), (c), (d), (e) and (i), 1548, 1549(b)
27 and 1552 of Title 75 are amended to read:

28 § 1541. Period of disqualification, revocation or suspension of
29 operating privilege.

30 * * *

1 ~~(a.1) Credit toward serving period of suspension for certain~~
2 ~~violations. Credit toward serving the period of suspension or~~
3 ~~revocation imposed for sections [3731 (relating to driving under~~
4 ~~influence of alcohol or controlled substance),] 3732 (relating~~
5 ~~to homicide by vehicle), 3735 (relating to homicide by vehicle~~
6 ~~while driving under the influence) [and], 3735.1 (relating to~~
7 ~~aggravated assault by vehicle while driving under the influence)~~
8 ~~and 3802 (relating to driving under influence of alcohol or~~
9 ~~controlled substance) shall not commence until the date of the~~
10 ~~person's release from prison.~~

11 * * *

12 ~~(d) Continued suspension of operating privilege. A~~
13 ~~defendant ordered by the court under section [1548] 3816~~
14 ~~(relating to requirements for driving under influence~~
15 ~~offenders), as the result of a conviction or Accelerated~~
16 ~~Rehabilitative Disposition of a violation of section [3731~~
17 ~~(relating to driving under influence of alcohol or controlled~~
18 ~~substance)] 3802, to attend a treatment program for alcohol or~~
19 ~~drug addiction must successfully complete all requirements of~~
20 ~~the treatment program ordered by the court before the~~
21 ~~defendant's operating privilege may be restored. Successful~~
22 ~~completion of a treatment program includes the payment of all~~
23 ~~court imposed fines and costs, as well as fees to be paid to the~~
24 ~~treatment program by the defendant. If a defendant fails to~~
25 ~~successfully complete the requirements of a treatment program,~~
26 ~~the suspension shall remain in effect until the defendant~~
27 ~~completes the program and is otherwise eligible for restoration~~
28 ~~of his operating privilege. The treatment agency shall~~
29 ~~immediately notify the court of successful completion of the~~
30 ~~treatment program. The final decision as to whether a defendant~~

1 ~~has successfully completed the treatment program rests with the~~
2 ~~court.~~

3 ~~§ 1542. Revocation of habitual offender's license.~~

4 * * *

5 ~~(b) Offenses enumerated. Three convictions arising from~~
6 ~~separate acts of any one or more of the following offenses~~
7 ~~committed by any person shall result in such person being~~
8 ~~designated as a habitual offender:~~

9 ~~(1) Any violation of Subchapter B of Chapter 37~~
10 ~~(relating to serious traffic offenses).~~

11 ~~(1.1) Any violation of Chapter 38 (relating to driving~~
12 ~~while impaired) except for section 3809 (relating to~~
13 ~~restriction on alcoholic beverages).~~

14 ~~(2) Any violation of section 3367 (relating to racing on~~
15 ~~highways).~~

16 ~~(3) Any violation of section 3742 (relating to accidents~~
17 ~~involving death or personal injury).~~

18 ~~(3.1) Any violation of section 3742.1 (relating to~~
19 ~~accidents involving death or personal injury while not~~
20 ~~properly licensed).~~

21 ~~(4) Any violation of section 3743 (relating to accidents~~
22 ~~involving damage to attended vehicle or property).~~

23 * * *

24 ~~§ 1543. Driving while operating privilege is suspended or~~
25 ~~revoked.~~

26 * * *

27 ~~(b) Certain offenses.—~~

28 ~~(1) A person who drives a motor vehicle on a highway or~~
29 ~~trafficyway of this Commonwealth at a time when the person's~~
30 ~~operating privilege is suspended or revoked as a condition of~~

1 ~~acceptance of Accelerated Rehabilitative Disposition for a~~
2 ~~violation of section [3731] 3802 (relating to driving under~~
3 ~~influence of alcohol or controlled substance) or because of a~~
4 ~~violation of section 1547(b)(1) (relating to suspension for~~
5 ~~refusal) or [3731] 3802 or is suspended under section 1581~~
6 ~~(relating to Driver's License Compact) for an offense~~
7 ~~substantially similar to a violation of section [3731] 3802~~
8 ~~shall, upon conviction, be guilty of a summary offense and~~
9 ~~shall be sentenced to pay a fine of [\$1,000] \$500 and to~~
10 ~~undergo imprisonment for a period of not less than [90] 60~~
11 ~~days.~~

12 ~~(1.1) (i) A person who has an amount of alcohol by~~
13 ~~weight in his blood that is equal to or greater than .02%~~
14 ~~or [is under the influence of a controlled substance as~~
15 ~~defined in section 1603 (relating to definitions)] who~~
16 ~~has any amount of a Schedule I, II or III controlled~~
17 ~~substance, as defined in the act of April 14, 1972~~
18 ~~(P.L. 233, No. 64), known as The Controlled Substance,~~
19 ~~Drug, Device and Cosmetic Act, or its metabolite, which~~
20 ~~has not been medically prescribed for the individual and~~
21 ~~who drives a motor vehicle on any highway or traffieway~~
22 ~~of this Commonwealth at a time when the person's~~
23 ~~operating privilege is suspended or revoked as a~~
24 ~~condition of acceptance of Accelerated Rehabilitative~~
25 ~~Disposition for a violation of section [3731] 3802 or~~
26 ~~because of a violation of section 1547(b)(1) or [3731]~~
27 ~~3802 or is suspended under section 1581 for an offense~~
28 ~~substantially similar to a violation of section [3731]~~
29 ~~3802 shall, upon a first conviction, be guilty of a~~
30 ~~summary offense and shall be sentenced to pay a fine of~~

1 ~~\$1,000 and to undergo imprisonment for a period of not~~
2 ~~less than 90 days.~~

3 ~~(ii) A second violation of this paragraph shall~~
4 ~~constitute a misdemeanor of the third degree, and upon~~
5 ~~conviction thereof the person shall be sentenced to pay a~~
6 ~~fine of \$2,500 and to undergo imprisonment for not less~~
7 ~~than six months.~~

8 ~~(iii) A third or subsequent violation of this~~
9 ~~paragraph shall constitute a misdemeanor of the first~~
10 ~~degree, and upon conviction thereof the person shall be~~
11 ~~sentenced to pay a fine of \$5,000 and to undergo~~
12 ~~imprisonment for not less than two years.~~

13 ~~(2) This subsection shall apply to any person against~~
14 ~~whom one of these suspensions has been imposed whether the~~
15 ~~person is currently serving this suspension or whether the~~
16 ~~effective date of suspension has been deferred under any of~~
17 ~~the provisions of section 1544 (relating to additional period~~
18 ~~of revocation or suspension). This provision shall also apply~~
19 ~~until the person has had the operating privilege restored.~~
20 ~~This subsection shall also apply to any revocation imposed~~
21 ~~pursuant to section 1542 (relating to revocation of habitual~~
22 ~~offender's license) if any of the enumerated offenses was for~~
23 ~~a violation of section [3731] 3802 or for an out of State~~
24 ~~offense that is substantially similar to a violation of~~
25 ~~section [3731] 3802 for which a revocation is imposed under~~
26 ~~section 1581.~~

27 ~~* * *~~

28 ~~§ 1545. Restoration of operating privilege.~~

29 ~~Upon the restoration of any person's operating privilege~~
30 ~~which has been suspended or revoked pursuant to this subchapter~~

1 ~~or pursuant to Chapter 38 (relating to driving while impaired),~~
2 ~~such person's record shall show five points, except that any~~
3 ~~additional points assessed against the person since the date of~~
4 ~~the last violation resulting in the suspension or revocation~~
5 ~~shall be added to such five points unless the person has served~~
6 ~~an additional period of suspension or revocation pursuant to~~
7 ~~section 1544(a) (relating to additional period of revocation or~~
8 ~~suspension). This section shall not apply to section 1533~~
9 ~~(relating to suspension of operating privilege for failure to~~
10 ~~respond to citation) or to 18 Pa.C.S. § 6310.4 (relating to~~
11 ~~restriction of operating privileges).~~

12 ~~§ 1547. Chemical testing to determine amount of alcohol or~~
13 ~~controlled substance.~~

14 ~~* * *~~

15 ~~(b) Suspension for refusal.—~~

16 ~~(1) If any person placed under arrest for a violation of~~
17 ~~section [3731] 3802 (relating to driving under influence of~~
18 ~~alcohol or controlled substance) is requested to submit to~~
19 ~~chemical testing and refuses to do so, the testing shall not~~
20 ~~be conducted but upon notice by the police officer, the~~
21 ~~department shall suspend the operating privilege of the~~
22 ~~person [for a period of 12 months.] as follows:~~

23 ~~(i) Except as set forth in subparagraph (ii), for a~~
24 ~~period of 12 months.~~

25 ~~(ii) For a period of 24 months if any of the~~
26 ~~following apply:~~

27 ~~(A) The person's operating privileges have~~
28 ~~previously been suspended under this subsection.~~

29 ~~(B) The person has, prior to the refusal under~~
30 ~~this paragraph, been sentenced for:~~

1 ~~(I) an offense under former section 3731;~~
2 ~~(II) an offense under section 3802 (relating~~
3 ~~to driving under influence of alcohol or~~
4 ~~controlled substance);~~
5 ~~(III) an offense equivalent to an offense~~
6 ~~under subclause (I) or (II); or~~
7 ~~(IV) a combination of the offenses set forth~~
8 ~~in this clause.~~

9 ~~(2) It shall be the duty of the police officer to inform~~
10 ~~the person that:~~

11 ~~(i) the person's operating privilege will be~~
12 ~~suspended upon refusal to submit to chemical testing[.];~~
13 ~~and~~

14 ~~(ii) upon conviction, plea or adjudication of~~
15 ~~delinquency for violating section 3802(a), the person~~
16 ~~will be subject to the penalties provided in section~~
17 ~~3804(c) (relating to penalties).~~

18 * * *

19 ~~(c) Test results admissible in evidence. In any summary~~
20 ~~proceeding or criminal proceeding in which the defendant is~~
21 ~~charged with a violation of section [3731] 3802 or any other~~
22 ~~violation of this title arising out of the same action, the~~
23 ~~amount of alcohol or controlled substance in the defendant's~~
24 ~~blood, as shown by chemical testing of the person's breath,~~
25 ~~blood or urine, which tests were conducted by qualified persons~~
26 ~~using approved equipment, shall be admissible in evidence.~~

27 ~~(1) Chemical tests of breath shall be performed on~~
28 ~~devices approved by the Department of Health using procedures~~
29 ~~prescribed jointly by regulations of the Departments of~~
30 ~~Health and Transportation. Devices shall have been calibrated~~

1 and tested for accuracy within a period of time and in a
2 manner specified by regulations of the Departments of Health
3 and Transportation. For purposes of breath testing, a
4 qualified person means a person who has fulfilled the
5 training requirement in the use of the equipment in a
6 training program approved by the Departments of Health and
7 Transportation. A certificate or log showing that a device
8 was calibrated and tested for accuracy and that the device
9 was accurate shall be presumptive evidence of those facts in
10 every proceeding in which a violation of this title is
11 charged.

12 (2) ~~Chemical tests of blood or urine, if conducted by a~~
13 ~~facility located in this Commonwealth, shall be performed by~~
14 ~~a clinical laboratory licensed and approved by the Department~~
15 ~~of Health for this purpose using procedures and equipment~~
16 ~~prescribed by the Department of Health or by a Pennsylvania~~
17 ~~State Police criminal laboratory. For purposes of blood and~~
18 ~~urine testing, qualified person means an individual who is~~
19 ~~authorized to perform those chemical tests under the act of~~
20 ~~September 26, 1951 (P.L.1539, No.389), known as The Clinical~~
21 ~~Laboratory Act.~~

22 (3) ~~Chemical tests of blood or urine, if conducted by a~~
23 ~~facility located outside this Commonwealth, shall be~~
24 ~~performed:~~

25 (i) ~~by a facility licensed by the Department of~~
26 ~~Health; or~~

27 (ii) ~~by a facility licensed to conduct the tests by~~
28 ~~the state in which the facility is located and licensed~~
29 ~~pursuant to the Clinical Laboratory Improvement~~
30 ~~Amendments of 1988 (Public Law 100 578, 102 Stat. 2903).~~

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

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

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

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

22 ~~(i) an adult is 0.10% or more; or~~

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

24 ~~this fact may be introduced into evidence if the person is~~
25 ~~charged with violating section 3731.]~~

26 ~~(c) Refusal admissible in evidence. In any summary~~
27 ~~proceeding or criminal proceeding in which the defendant is~~
28 ~~charged with a violation of section [3731] 3802 or any other~~
29 ~~violation of this title arising out of the same action, the fact~~
30 ~~that the defendant refused to submit to chemical testing as~~

1 ~~required by subsection (a) may be introduced in evidence along~~
2 ~~with other testimony concerning the circumstances of the~~
3 ~~refusal. No presumptions shall arise from this evidence but it~~
4 ~~may be considered along with other factors concerning the~~
5 ~~charge.~~

6 * * *

7 ~~(i) Request by driver for test. Any person involved in an~~
8 ~~accident or placed under arrest for a violation of section~~
9 ~~{3731} 3802 may request a chemical test of his breath, blood or~~
10 ~~urine. Such requests shall be honored when it is reasonably~~
11 ~~practicable to do so.~~

12 * * *

13 ~~§ 1548. Requirements for driving under influence offenders.~~

14 ~~{(a) Evaluation using Court Reporting Network. In addition~~
15 ~~to any other requirements of the court, every person convicted~~
16 ~~of a violation of section 3731 (relating to driving under~~
17 ~~influence of alcohol or controlled substance) and every person~~
18 ~~offered Accelerated Rehabilitative Disposition as a result of a~~
19 ~~charge of a violation of section 3731 shall, prior to sentencing~~
20 ~~or receiving Accelerated Rehabilitative Disposition or other~~
21 ~~preliminary disposition, be evaluated using Court Reporting~~
22 ~~Network instruments issued by the department and any other~~
23 ~~additional evaluation techniques deemed appropriate by the court~~
24 ~~to determine the extent of the person's involvement with alcohol~~
25 ~~or controlled substances and to assist the court in determining~~
26 ~~what sentencing, probation or conditions of Accelerated~~
27 ~~Rehabilitative Disposition would benefit the person or the~~
28 ~~public.~~

29 ~~(b) Attendance at alcohol highway safety school. In~~
30 ~~addition to any other requirements of the court, every person~~

1 ~~convicted of a first offense under section 3731 and every person~~
2 ~~placed on Accelerated Rehabilitative Disposition or other~~
3 ~~preliminary disposition as a result of a charge of a violation~~
4 ~~of section 3731 shall, as a part of sentencing or as a condition~~
5 ~~of parole, probation or Accelerated Rehabilitative Disposition,~~
6 ~~be required to attend and successfully complete an approved~~
7 ~~alcohol highway safety school established pursuant to section~~
8 ~~1549 (relating to establishment of schools). All persons~~
9 ~~required to participate in this program shall be given both oral~~
10 ~~and written notice of the provisions of section 1543(b)~~
11 ~~(relating to driving while operating privilege is suspended or~~
12 ~~revoked). Persons convicted of a second or subsequent offense~~
13 ~~under section 3731 shall be required by the court to be treated~~
14 ~~for alcohol or drug addiction pursuant to subsection (d).]~~

15 ~~(c) Results of evaluation.—~~

16 ~~(1) This subsection shall apply as follows:~~

17 ~~(i) To offenders sentenced under section 3804(a)(3),~~
18 ~~(b)(2) and (c)(1) (relating to penalties) after September~~
19 ~~29, 2003, and before July 1, 2006.~~

20 ~~(ii) To offenders sentenced under section 3804(a)(1)~~
21 ~~and (2) and (b)(1) after September 29, 2003, and before~~
22 ~~July 1, 2009.~~

23 ~~(2) Based on the results of evaluation and any~~
24 ~~additional information and evidence, the court may in~~
25 ~~addition to any other requirements of the court or this title~~
26 ~~determine and require, as part of sentencing or condition of~~
27 ~~parole, probation or Accelerated Rehabilitative Disposition~~
28 ~~or other preliminary disposition, that the person~~
29 ~~successfully complete a prescribed program of individual or~~
30 ~~group intervention or supervised inpatient or outpatient~~

1 ~~treatment or any combination of these programs or treatments~~
2 ~~for a period of up to two years in duration. Any program of~~
3 ~~individual or group intervention or supervised inpatient or~~
4 ~~outpatient treatment shall be of a type approved by the~~
5 ~~Department of Health or operated by a facility or hospital~~
6 ~~that is under the authority of the United States Armed Forces~~
7 ~~or the Department of Veterans Affairs. Based on periodic~~
8 ~~reviews of the person's progress, the court may alter, modify~~
9 ~~or shorten or extend the duration of the requirements.~~

10 ~~(3) This subsection shall expire July 1, 2009.~~

11 ~~(d) Order for alcohol or drug commitment.~~

12 ~~(1) This subsection shall apply as follows:~~

13 ~~(i) To offenders sentenced under section 3804(a)(3),~~
14 ~~(b)(2) and (c)(1) after September 29, 2003, and before~~
15 ~~July 1, 2006.~~

16 ~~(ii) To offenders sentenced under section 3804(a)(1)~~
17 ~~and (2) and (b)(1) after September 29, 2003, and before~~
18 ~~July 1, 2009.~~

19 ~~(2) If after evaluation and further examination and~~
20 ~~hearing it is determined that a defendant is an alleged~~
21 ~~chronic abuser of alcohol or controlled substances or that~~
22 ~~the person is a severely debilitated controlled substance or~~
23 ~~alcohol abuser who represents a demonstrated and serious~~
24 ~~threat, the court may order the person committed for~~
25 ~~treatment at a facility or institution approved by the~~
26 ~~Department of Health or operated by a facility or hospital~~
27 ~~that is under the authority of the United States Armed Forces~~
28 ~~or the Department of Veterans Affairs. If the defendant has~~
29 ~~been convicted of a previous violation of section 3731, the~~
30 ~~court shall order the person committed to a drug and alcohol~~

1 ~~treatment program licensed by the Office of Drug and Alcohol~~
2 ~~Programs of the Department of Health or operated by a~~
3 ~~facility or hospital that is under the authority of the~~
4 ~~United States Armed Forces or the Department of Veterans~~
5 ~~Affairs:~~

6 ~~[(1)] (i) Any person subject to this subsection may be~~
7 ~~examined by an appropriate physician of the person's choosing~~
8 ~~and the result of the examination shall be considered by the~~
9 ~~court.~~

10 ~~[(2)] (ii) Upon motion duly made by the committed~~
11 ~~person, an attorney or an attending physician, the court at~~
12 ~~any time after an order of commitment may review the order.~~
13 ~~After determining the progress of treatment, the court may~~
14 ~~order its continuation, the person's release or supervised~~
15 ~~treatment on an outpatient basis.~~

16 ~~[(3)] (iii) Any person ordered by the court to receive~~
17 ~~treatment after a first offense, and any person required to~~
18 ~~receive treatment after a second offense under section 3731~~
19 ~~must demonstrate to the court that the defendant has~~
20 ~~successfully completed treatment according to all guidelines~~
21 ~~required by the program before the person's operating~~
22 ~~privilege may be restored.~~

23 ~~(3) This subsection shall expire July 1, 2009.~~

24 ~~(c) Costs. Costs of any and all requirements applied under~~
25 ~~this section shall be in addition to any other penalty required~~
26 ~~or allowed by law and shall be the responsibility of the person~~
27 ~~upon whom the requirements are placed. This subsection shall~~
28 ~~expire July 1, 2009.~~

29 ~~(f) Court ordered intervention or treatment.—~~

30 ~~(1) This subsection shall apply as follows:~~

1 ~~(i) To offenders sentenced under section 3804(a)(3),~~
2 ~~(b)(2) and (c)(1) after September 29, 2003, and before~~
3 ~~July 1, 2006.~~

4 ~~(ii) To offenders sentenced under section 3804(a)(1)~~
5 ~~and (2) and (b)(1) after September 29, 2003, and before~~
6 ~~July 1, 2009.~~

7 ~~(2) A record shall be submitted to the department as to~~
8 ~~whether the court did or did not order a defendant to attend~~
9 ~~a program of supervised individual or group counseling~~
10 ~~treatment or supervised inpatient or outpatient treatment. If~~
11 ~~the court orders treatment, a report shall be forwarded to~~
12 ~~the department as to whether the defendant successfully~~
13 ~~completed the program. If a defendant fails to successfully~~
14 ~~complete a program of treatment as ordered by the court, the~~
15 ~~suspension shall remain in effect until the department is~~
16 ~~notified by the court that the defendant has successfully~~
17 ~~completed treatment and the defendant is otherwise eligible~~
18 ~~for restoration of his operating privilege. In order to~~
19 ~~implement the recordkeeping requirements of this section, the~~
20 ~~department and the court shall work together to exchange~~
21 ~~pertinent information about a defendant's case, including~~
22 ~~attendance and completion of treatment or failure to complete~~
23 ~~treatment.~~

24 ~~(3) This subsection shall expire July 1, 2009.~~

25 ~~§ 1549. Establishment of schools.~~

26 ~~* * *~~

27 ~~(b) Alcohol highway safety schools.—~~

28 ~~(1) Each county, multicounty judicial district or group~~
29 ~~of counties combined under one program shall, in compliance~~
30 ~~with regulations of the department and the Department of~~

1 ~~Health, establish and maintain a course of instruction on the~~
2 ~~problems of alcohol and driving. The time during which the~~
3 ~~course is offered shall accommodate persons' work schedules,~~
4 ~~including weekend and evening times.~~

5 ~~(2) These regulations shall include, but not be limited~~
6 ~~to, a uniform curriculum for the course of instruction,~~
7 ~~training and certification requirements for instructors and~~
8 ~~provision for the giving of both oral and written notice of~~
9 ~~the provisions of section 1543(b) (relating to driving while~~
10 ~~operating privilege is suspended or revoked) to all program~~
11 ~~participants.~~

12 ~~§ 1552. Accelerated Rehabilitative Disposition.~~

13 ~~The court of common pleas in each judicial district and the~~
14 ~~Municipal Court of Philadelphia shall establish and implement a~~
15 ~~program for Accelerated Rehabilitative Disposition for persons~~
16 ~~charged with a violation of section [3731] 3802 (relating to~~
17 ~~driving under influence of alcohol or controlled substance) in~~
18 ~~accordance with the provisions of this chapter and rules adopted~~
19 ~~by the Supreme Court.~~

20 ~~Section 12. Section 1553(d)(6), (8), (9) and (16), (e) and~~
21 ~~(f)(1) of Title 75 are amended and the section is amended by~~
22 ~~adding subsections to read:~~

23 ~~§ 1553. Occupational limited license.~~

24 ~~* * *~~

25 ~~(d) Unauthorized issuance. The department shall prohibit~~
26 ~~issuance of an occupational limited license to:~~

27 ~~* * *~~

28 ~~(6) [Any] Except as set forth in subsection (d.1) or~~
29 ~~(d.2) any person who has been adjudicated delinquent or~~
30 ~~convicted of driving under the influence of alcohol or~~

1 ~~controlled substance unless the suspension or revocation~~
2 ~~imposed for that conviction has been fully served.~~

3 * * *

4 ~~(8) [Any] Except as set forth in subsections (d.1) and~~
5 ~~(d.2), any person who has been granted a consent decree or~~
6 ~~Accelerated Rehabilitative Disposition for driving under the~~
7 ~~influence of alcohol or controlled substance and whose~~
8 ~~license has been suspended by the department unless the~~
9 ~~suspension imposed has been fully served.~~

10 ~~(9) [Any] Except as set forth in subsection (d.4), any~~
11 ~~person whose operating privilege has been suspended for a~~
12 ~~violation of 18 Pa.C.S. § 6308 (relating to purchase,~~
13 ~~consumption, possession or transportation of liquor or malt~~
14 ~~or brewed beverages) unless the suspension imposed has been~~
15 ~~fully served.~~

16 * * *

17 ~~(16) [Any] Except as set forth in subsection (d.3), any~~
18 ~~person whose operating privilege has been suspended under an~~
19 ~~interjurisdictional agreement as provided for in section 6146~~
20 ~~as the result of a conviction or adjudication if the~~
21 ~~conviction or adjudication for an equivalent offense in this~~
22 ~~Commonwealth would have prohibited the issuance of an~~
23 ~~occupational limited license.~~

24 * * *

25 ~~(d.1) Adjudication eligibility. An individual who has been~~
26 ~~adjudicated delinquent, convicted, granted a consent decree or~~
27 ~~granted Accelerated Rehabilitation Disposition for driving under~~
28 ~~the influence of alcohol or controlled substance and does not~~
29 ~~have a prior offense as defined in section 3806(a) (relating to~~
30 ~~prior offenses) shall be eligible for an occupational limited~~

1 ~~license.~~

2 ~~(d.2) Suspension eligibility.~~

3 ~~(1) An individual whose license has been suspended for a~~
4 ~~period of 24 months under section 1547(b)(1)(ii) (relating to~~
5 ~~chemical testing to determine amount of alcohol or controlled~~
6 ~~substance) or 3804(e)(2)(ii) (relating to penalties) shall~~
7 ~~not be prohibited from obtaining an occupational limited~~
8 ~~license under this section if the individual:~~

9 ~~(i) is otherwise eligible for restoration;~~

10 ~~(ii) has served at least 12 months of the license~~
11 ~~suspension;~~

12 ~~(iii) only operates a motor vehicle equipped with an~~
13 ~~ignition interlock system as defined in section 3801~~
14 ~~(relating to definitions); and~~

15 ~~(iv) has certified to the department under paragraph~~
16 ~~(3).~~

17 ~~(2) A period of ignition interlock accepted under this~~
18 ~~subsection shall not count towards the one year mandatory~~
19 ~~period of ignition interlock imposed under section 3805~~
20 ~~(relating to ignition interlock).~~

21 ~~(3) If an individual seeks an occupational limited~~
22 ~~license under this subsection, the department shall require~~
23 ~~that each motor vehicle owned or registered to the person has~~
24 ~~been equipped with an approved ignition interlock system as a~~
25 ~~condition of issuing an occupational limited license with an~~
26 ~~ignition interlock restriction.~~

27 ~~(d.3) Interjurisdictional suspensions. An individual whose~~
28 ~~operating privilege has been suspended pursuant to an~~
29 ~~interjurisdictional agreement under section 6146 as the result~~
30 ~~of an adjudication or conviction for driving under the influence~~

1 ~~of alcohol or controlled substance and does not have a prior~~
2 ~~offense as defined in section 3806(a) shall be eligible for an~~
3 ~~occupational limited license.~~

4 ~~(d.4) Suspension eligibility related to Title 18~~
5 ~~violation. An individual whose operating privilege has been~~
6 ~~suspended for violation of 18 Pa.C.S. § 6308 shall be eligible~~
7 ~~for an occupational limited license unless the individual has~~
8 ~~previously violated 18 Pa.C.S. § 6308.~~

9 ~~(e) Offenses committed during a period for which an~~
10 ~~occupational limited license has been issued. Any driver who~~
11 ~~has been issued an occupational limited license and as to whom~~
12 ~~the department receives a report of conviction of an offense for~~
13 ~~which the penalty is a cancellation, disqualification, recall,~~
14 ~~suspension or revocation of operating privileges or a report~~
15 ~~under section 3815(c)(4) (relating to mandatory sentencing)~~
16 ~~shall have the occupational limited license recalled, and the~~
17 ~~driver shall surrender the limited license to the department or~~
18 ~~its agents designated under the authority of section 1540.~~

19 ~~(f) Restrictions. A driver who has been issued an~~
20 ~~occupational limited license shall observe the following:~~

21 ~~(1) The driver shall operate a designated vehicle only~~
22 ~~{between}:~~

23 ~~(i) Between the driver's place of residence and~~
24 ~~place of employment or study and as necessary in the~~
25 ~~course of employment or conducting a business or pursuing~~
26 ~~a course of study where the operation of a motor vehicle~~
27 ~~is a requirement of employment or of conducting a~~
28 ~~business or of pursuing a course of study.~~

29 ~~(ii) To and from a place for scheduled or emergency~~
30 ~~medical examination or treatment. This subparagraph~~

1 ~~includes treatment required under Chapter 38 (relating to~~
2 ~~driving while impaired).~~

3 * * *

4 Section 13. ~~Sections 1554(f)(8), 1575(b), 1586, 1611(a)(1),~~
5 ~~3101(b), 3326(c), 3327(c) and 3716(a) of Title 75 are amended to~~
6 ~~read:~~

7 ~~§ 1554. Probationary license.~~

8 * * *

9 ~~(f) Unauthorized issuance. The department shall not issue a~~
10 ~~probationary license to:~~

11 * * *

12 ~~(8) A person who has been convicted of a violation of~~
13 ~~section [3731] 3802 (relating to driving under influence of~~
14 ~~alcohol or controlled substance) within the preceding seven~~
15 ~~years.~~

16 * * *

17 ~~§ 1575. Permitting violation of title.~~

18 * * *

19 ~~(b) Penalty. Any person violating the provisions of~~
20 ~~subsection (a) is guilty of a summary offense and is subject to~~
21 ~~the same fine as the driver of the vehicle. If the driver is~~
22 ~~convicted under section [3731 (relating to driving under~~
23 ~~influence of alcohol or controlled substance) or] 3735 (relating~~
24 ~~to homicide by vehicle while driving under influence) or 3802~~
25 ~~(relating to driving under influence of alcohol or controlled~~
26 ~~substance), the person violating subsection (a) shall also be~~
27 ~~subject to suspension or revocation, as applicable, under~~
28 ~~sections 1532 (relating to revocation or suspension of operating~~
29 ~~privilege) [and], 1542 (relating to revocation of habitual~~
30 ~~offender's license) and 3804(c) (relating to penalties).~~

1 * * *

2 ~~§ 1586. Duties of department.~~

3 ~~The department shall, for purposes of imposing a suspension~~
4 ~~or revocation under Article IV of the compact, treat reports of~~
5 ~~convictions received from party states that relate to driving,~~
6 ~~operating or being in actual physical control of a vehicle while~~
7 ~~impaired by or under the influence of alcohol, intoxicating~~
8 ~~liquor, drugs, narcotics, controlled substances or other~~
9 ~~impairing or intoxicating substance as being substantially~~
10 ~~similar to section [3731] 3802 (relating to driving under the~~
11 ~~influence of alcohol or controlled substance). The fact that the~~
12 ~~offense reported to the department by a party state may require~~
13 ~~a different degree of impairment of a person's ability to~~
14 ~~operate, drive or control a vehicle than that required to~~
15 ~~support a conviction for a violation of section [3731] 3802~~
16 ~~shall not be a basis for determining that the party state's~~
17 ~~offense is not substantially similar to section [3731] 3802 for~~
18 ~~purposes of Article IV of the compact.~~

19 ~~§ 1611. Disqualification.~~

20 ~~(a) Disqualification for first violation of certain~~
21 ~~offenses. Upon receipt of a certified copy of conviction, the~~
22 ~~department shall, in addition to any other penalties imposed~~
23 ~~under this title, disqualify any person from driving a~~
24 ~~commercial motor vehicle or school vehicle for a period of one~~
25 ~~year for the first violation of:~~

26 ~~(1) section [3731] 3802 (relating to driving under the~~
27 ~~influence of alcohol or controlled substance), where the~~
28 ~~violation occurred while the person was operating a~~
29 ~~commercial motor vehicle or school vehicle;~~

30 * * *

1 ~~§ 3101. Application of part.~~

2 ~~* * *~~

3 ~~(b) Serious traffic offenses. The provisions of section~~
4 ~~3345 (relating to meeting or overtaking school bus) [and] 1~~
5 ~~Subchapter B of Chapter 37 (relating to serious traffic~~
6 ~~offenses) and Chapter 38 (relating to driving while impaired)~~
7 ~~shall apply upon highways and trafficways throughout this~~
8 ~~Commonwealth.~~

9 ~~§ 3326. Duty of driver in construction and maintenance areas or~~
10 ~~on highway safety corridors.~~

11 ~~* * *~~

12 ~~(c) Fines to be doubled. For any of the following~~
13 ~~violations, when committed in an active work zone manned by~~
14 ~~workers acting in their official capacity or on a highway safety~~
15 ~~corridor designated under section 6105.1 (relating to~~
16 ~~designation of highway safety corridors), the fine shall be~~
17 ~~double the usual amount:~~

18 ~~Section 3102 (relating to obedience to authorized~~
19 ~~persons directing traffic).~~

20 ~~Section 3111 (relating to obedience to traffic~~
21 ~~control devices).~~

22 ~~Section 3112 (relating to traffic control signals).~~

23 ~~Section 3114 (relating to flashing signals).~~

24 ~~Section 3302 (relating to meeting vehicle proceeding~~
25 ~~in opposite direction).~~

26 ~~Section 3303 (relating to overtaking vehicle on the~~
27 ~~left).~~

28 ~~Section 3304 (relating to overtaking vehicle on the~~
29 ~~right).~~

30 ~~Section 3305 (relating to limitations on overtaking~~

1 ~~on the left).~~

2 ~~Section 3306 (relating to limitations on driving on~~
3 ~~left side of roadway).~~

4 ~~Section 3307 (relating to no passing zones).~~

5 ~~Section 3309 (relating to driving on roadways laned~~
6 ~~for traffic).~~

7 ~~Section 3310 (relating to following too closely).~~

8 ~~Section 3323 (relating to stop signs and yield~~
9 ~~signs).~~

10 ~~Section 3326 (relating to duty of driver in~~
11 ~~construction and maintenance areas).~~

12 ~~Section 3361 (relating to driving vehicle at safe~~
13 ~~speed).~~

14 ~~Section 3362 (relating to maximum speed limits).~~

15 ~~Section 3702 (relating to limitations on backing).~~

16 ~~Section 3714 (relating to careless driving).~~

17 ~~Section 3715 (relating to restriction on alcoholic~~
18 ~~beverages).~~

19 ~~[Section 3731 (relating to driving under influence of~~
20 ~~alcohol or controlled substance).]~~

21 ~~Section 3736 (relating to reckless driving).~~

22 ~~Section 3802 (relating to driving under influence of~~
23 ~~alcohol or controlled substance).~~

24 ~~* * *~~

25 ~~§ 3327. Duty of driver in emergency response areas.~~

26 ~~* * *~~

27 ~~(c) Fines to be doubled. In addition to any penalty as~~
28 ~~provided in subsection (b), the fine for any of the following~~
29 ~~violations when committed in an emergency response area manned~~
30 ~~by emergency service responders shall be double the usual~~

1 amount+.

2 ~~Section 3102 (relating to obedience to authorized persons~~
3 ~~directing traffic).~~

4 ~~Section 3111 (relating to obedience to traffic control~~
5 ~~devices).~~

6 ~~Section 3114 (relating to flashing signals).~~

7 ~~Section 3302 (relating to meeting vehicle proceeding in~~
8 ~~opposite direction).~~

9 ~~Section 3303 (relating to overtaking vehicle on the~~
10 ~~left).~~

11 ~~Section 3304 (relating to overtaking vehicle on the~~
12 ~~right).~~

13 ~~Section 3305 (relating to limitations on overtaking on~~
14 ~~the left).~~

15 ~~Section 3306 (relating to limitations on driving on left~~
16 ~~side of roadway).~~

17 ~~Section 3307 (relating to no passing zones).~~

18 ~~Section 3310 (relating to following too closely).~~

19 ~~Section 3312 (relating to limited access highway~~
20 ~~entrances and exits).~~

21 ~~Section 3323 (relating to stop signs and yield signs).~~

22 ~~Section 3325 (relating to duty of driver on approach of~~
23 ~~emergency vehicle).~~

24 ~~Section 3361 (relating to driving vehicle at safe speed).~~

25 ~~Section 3707 (relating to driving or stopping close to~~
26 ~~fire apparatus).~~

27 ~~Section 3710 (relating to stopping at intersection or~~
28 ~~crossing to prevent obstruction).~~

29 ~~Section 3714 (relating to careless driving).~~

30 ~~Section 3715.1 (relating to restriction on alcoholic~~

1 beverages).

2 ~~[Section 3731 (relating to driving under influence of~~
3 ~~alcohol or controlled substance).]~~

4 ~~Section 3736 (relating to reckless driving).~~

5 ~~Section 3802 (relating to driving under influence of~~
6 ~~alcohol or controlled substance).~~

7 * * *

8 ~~§ 3716. Accidents involving overturned vehicles.~~

9 ~~(a) Speeding, careless driving, etc. If a commercial motor~~
10 ~~vehicle overturns in an accident resulting from a violation of~~
11 ~~section 3361 (relating to driving vehicle at safe speed), 3362~~
12 ~~(relating to maximum speed limits), 3714 (relating to careless~~
13 ~~driving) or [3731] 3802 (relating to driving under influence of~~
14 ~~alcohol or controlled substance), the operator of the vehicle~~
15 ~~shall, upon conviction of any of the aforementioned offenses, be~~
16 ~~sentenced to pay a fine of \$2,000, in addition to any other~~
17 ~~penalty authorized by law.~~

18 * * *

19 ~~Section 14. Section 3731 of Title 75 is repealed.~~

20 ~~Section 15. Sections 3732(a), 3735(a), 3735.1(a) and 3755(a)~~
21 ~~of Title 75 are amended to read:~~

22 ~~§ 3732. Homicide by vehicle.~~

23 ~~(a) Offense. Any person who recklessly or with gross~~
24 ~~negligence causes the death of another person while engaged in~~
25 ~~the violation of any law of this Commonwealth or municipal~~
26 ~~ordinance applying to the operation or use of a vehicle or to~~
27 ~~the regulation of traffic except section [3731] 3802 (relating~~
28 ~~to driving under influence of alcohol or controlled substance)~~
29 ~~is guilty of homicide by vehicle, a felony of the third degree,~~
30 ~~when the violation is the cause of death.~~

1 * * *

2 ~~§ 3735. Homicide by vehicle while driving under influence.~~

3 ~~(a) Offense defined. Any person who unintentionally causes~~
4 ~~the death of another person as the result of a violation of~~
5 ~~section [3731] 3802 (relating to driving under influence of~~
6 ~~alcohol or controlled substance) and who is convicted of~~
7 ~~violating section [3731] 3802 is guilty of a felony of the~~
8 ~~second degree when the violation is the cause of death and the~~
9 ~~sentencing court shall order the person to serve a minimum term~~
10 ~~of imprisonment of not less than three years. A consecutive~~
11 ~~three year term of imprisonment shall be imposed for each victim~~
12 ~~whose death is the result of the violation of section [3731]~~
13 ~~3802.~~

14 * * *

15 ~~§ 3735.1. Aggravated assault by vehicle while driving under the~~
16 ~~influence.~~

17 ~~(a) Offense defined. Any person who negligently causes~~
18 ~~serious bodily injury to another person as the result of a~~
19 ~~violation of section [3731] 3802 (relating to driving under~~
20 ~~influence of alcohol or controlled substance) and who is~~
21 ~~convicted of violating section [3731] 3802 commits a felony of~~
22 ~~the second degree when the violation is the cause of the injury.~~

23 * * *

24 ~~§ 3755. Reports by emergency room personnel.~~

25 ~~(a) General rule. If, as a result of a motor vehicle~~
26 ~~accident, the person who drove, operated or was in actual~~
27 ~~physical control of the movement of any involved motor vehicle~~
28 ~~requires medical treatment in an emergency room of a hospital~~
29 ~~and if probable cause exists to believe a violation of section~~
30 ~~[3731] 3802 (relating to driving under influence of alcohol or~~

1 ~~controlled substance) was involved, the emergency room physician~~
2 ~~or his designee shall promptly take blood samples from those~~
3 ~~persons and transmit them within 24 hours for testing to the~~
4 ~~Department of Health or a clinical laboratory licensed and~~
5 ~~approved by the Department of Health and specifically designated~~
6 ~~for this purpose. This section shall be applicable to all~~
7 ~~injured occupants who were capable of motor vehicle operation if~~
8 ~~the operator or person in actual physical control of the~~
9 ~~movement of the motor vehicle cannot be determined. Test results~~
10 ~~shall be released upon request of the person tested, his~~
11 ~~attorney, his physician or governmental officials or agencies.~~

12 * * *

13 Section 16. ~~Title 75 is amended by adding a chapter to read:~~

14 ~~CHAPTER 38~~

15 ~~DRIVING WHILE IMPAIRED~~

16 ~~Sec.~~

17 ~~3801. Definitions.~~

18 ~~3802. Driving under influence of alcohol or controlled~~
19 ~~substance.~~

20 ~~3803. Grading.~~

21 ~~3804. Penalties.~~

22 ~~3805. Ignition interlock. (Reserved)~~

23 ~~3806. Prior offenses.~~

24 ~~3807. Accelerated rehabilitative disposition.~~

25 ~~3808. Illegally operating a motor vehicle not equipped with~~
26 ~~ignition interlock.~~

27 ~~3809. Restriction on alcoholic beverages.~~

28 ~~3810. Authorized use not a defense.~~

29 ~~3811. Certain arrests authorized.~~

30 ~~3812. Preliminary hearing or arraignment.~~

1 ~~3813. Work release.~~

2 ~~3814. Drug and alcohol assessments.~~

3 ~~3815. Mandatory sentencing.~~

4 ~~3816. Requirements for driving under influence offenders.~~

5 ~~3817. Reporting requirements for offenses.~~

6 ~~§ 3801. Definitions.~~

7 ~~The following words and phrases when used in this chapter~~
8 ~~shall have the meanings given to them in this section unless the~~
9 ~~context clearly indicates otherwise:~~

10 ~~"Adult." An individual who is at least 21 years of age.~~

11 ~~"Ignition interlock system." A system approved by the~~
12 ~~department which prevents a vehicle from being started or~~
13 ~~operated unless the operator first provides a breath sample~~
14 ~~indicating that the operator has an alcohol level less than~~
15 ~~.025%.~~

16 ~~"Minor." An individual who is under 21 years of age.~~

17 ~~§ 3802. Driving under influence of alcohol or controlled~~
18 ~~substance.~~

19 ~~(a) General impairment.—~~

20 ~~(1) 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 individual was~~
23 ~~incapable of safely driving, operating or being in actual~~
24 ~~physical control of the movement of the vehicle.~~

25 ~~(2) An individual may not drive, operate or be in actual~~
26 ~~physical control of the movement of a vehicle after imbibing~~
27 ~~a sufficient amount of alcohol such that the alcohol~~
28 ~~concentration in the individual's blood or breath is at least~~
29 ~~.08% but less than .10% within three hours after the~~
30 ~~individual has driven, operated or been in actual physical~~

1 ~~control of the movement of the vehicle.~~

2 ~~(b) High rate of alcohol. An individual may not drive,~~
3 ~~operate or be in actual physical control of the movement of a~~
4 ~~vehicle after imbibing a sufficient amount of alcohol such that~~
5 ~~the alcohol concentration in the individual's blood or breath is~~
6 ~~at least .10% but less than .16% within three hours after the~~
7 ~~individual has driven, operated or been in actual physical~~
8 ~~control of the movement of the vehicle.~~

9 ~~(c) Highest rate of alcohol. An individual may not drive,~~
10 ~~operate or be in actual physical control of the movement of a~~
11 ~~vehicle after imbibing a sufficient amount of alcohol such that~~
12 ~~the alcohol concentration in the individual's blood or breath is~~
13 ~~.16% or higher within three hours after the individual has~~
14 ~~driven, operated or been in actual physical control of the~~
15 ~~movement of the vehicle.~~

16 ~~(d) Controlled substances. An individual may not drive,~~
17 ~~operate or be in actual physical control of the movement of a~~
18 ~~vehicle under any of the following circumstances:~~

19 ~~(1) There is in the individual's blood any amount of a:~~

20 ~~(i) Schedule I controlled substance, as defined in~~
21 ~~the act of April 14, 1972 (P.L.233, No.64), known as The~~
22 ~~Controlled Substance, Drug, Device and Cosmetic Act;~~

23 ~~(ii) Schedule II or Schedule III controlled~~
24 ~~substance, as defined in The Controlled Substance, Drug,~~
25 ~~Device and Cosmetic Act, which has not been medically~~
26 ~~prescribed for the individual; or~~

27 ~~(iii) metabolite of a substance under subparagraph~~
28 ~~(i) or (ii).~~

29 ~~(2) The individual is under the influence of a drug or~~
30 ~~combination of drugs to a degree which impairs the~~

1 ~~individual's ability to safely drive, operate or be in actual~~
2 ~~physical control of the movement of the vehicle.~~

3 ~~(3) The individual is under the combined influence of~~
4 ~~alcohol and a drug or combination of drugs to a degree which~~
5 ~~impairs the individual's ability to safely drive, operate or~~
6 ~~be in actual physical control of the movement of the vehicle.~~

7 ~~(4) The individual is under the influence of a solvent~~
8 ~~or noxious substance in violation of 18 Pa.C.S. § 7303~~
9 ~~(relating to sale or illegal use of certain solvents and~~
10 ~~noxious substances).~~

11 ~~(c) Minors. A minor may not drive, operate or be in actual~~
12 ~~physical control of the movement of a vehicle after imbibing a~~
13 ~~sufficient amount of alcohol such that the alcohol concentration~~
14 ~~in the minor's blood or breath is .02% or higher within three~~
15 ~~hours after the minor has driven, operated or been in actual~~
16 ~~physical control of the movement of the vehicle.~~

17 ~~(f) Commercial school vehicles. An individual may not~~
18 ~~drive, operate or be in actual physical control of the movement~~
19 ~~of a commercial vehicle or school vehicle in any of the~~
20 ~~following circumstances:~~

21 ~~(1) After the individual has imbibed a sufficient amount~~
22 ~~of alcohol such that the alcohol concentration in the~~
23 ~~individual's blood or breath is:~~

24 ~~(i) .04% or greater within three hours after the~~
25 ~~individual has driven, operated or been in actual~~
26 ~~physical control of the movement of a commercial vehicle~~
27 ~~other than a school bus or a school vehicle.~~

28 ~~(ii) .02% or greater within three hours after the~~
29 ~~individual has driven, operated or been in actual~~
30 ~~physical control of the movement of a school bus or a~~

1 ~~school vehicle.~~

2 ~~(2) After the individual has imbibed a sufficient amount~~
3 ~~of alcohol such that the individual was incapable of safely~~
4 ~~driving, operating or being in actual physical control of the~~
5 ~~movement of a commercial vehicle.~~

6 ~~(3) While the individual is under the influence of a~~
7 ~~controlled substance or combination of controlled substances,~~
8 ~~as defined in section 1603 (relating to definitions).~~

9 ~~(4) While the individual is under the combined influence~~
10 ~~of alcohol and a controlled substance or combination of~~
11 ~~controlled substances, as defined in section 1603.~~

12 ~~(g) Exception to three hour rule. Notwithstanding the~~
13 ~~provisions of subsection (a), (b), (c), (e) or (f), where~~
14 ~~alcohol concentration in an individual's blood or breath is an~~
15 ~~element of the offense, evidence of such alcohol concentration~~
16 ~~more than three hours after the individual has driven, operated~~
17 ~~or been in actual physical control of the movement of the~~
18 ~~vehicle is sufficient to establish that element of the offense~~
19 ~~under the following circumstances:~~

20 ~~(1) where the Commonwealth shows good cause explaining~~
21 ~~why the chemical test could not be performed within three~~
22 ~~hours; and~~

23 ~~(2) where the Commonwealth establishes that the~~
24 ~~individual did not imbibe any alcohol between the time the~~
25 ~~individual was arrested and the time the test was performed.~~

26 ~~§ 3803. Grading.~~

27 ~~(a) Basic offenses.—~~

28 ~~(1) An individual who violates section 3802(a) (relating~~
29 ~~to driving under influence of alcohol or controlled~~
30 ~~substance) and has no more than one prior offense commits a~~

1 ~~misdemeanor for which the individual may be sentenced to a~~
2 ~~term of imprisonment of not more than six months and to pay a~~
3 ~~fine under section 3804 (relating to penalties).~~

4 ~~(2) An individual who violates section 3802(a) and has~~
5 ~~more than one prior offense commits a misdemeanor of the~~
6 ~~second degree.~~

7 ~~(b) Other offenses.—~~

8 ~~(1) An individual who violates section 3802(b), (e) or~~
9 ~~(f) and who has no more than one prior offense commits a~~
10 ~~misdemeanor for which the individual may be sentenced to a~~
11 ~~term of imprisonment of not more than six months and to pay a~~
12 ~~fine under section 3804.~~

13 ~~(2) An individual who violates section 3802(c) or (d)~~
14 ~~and who has no prior offenses commits a misdemeanor for which~~
15 ~~the individual may be sentenced to a term of imprisonment of~~
16 ~~not more than six months and to pay a fine under section~~
17 ~~3804.~~

18 ~~(3) An individual who violates section 3802(b), (e) or~~
19 ~~(f) and who has more than one prior offense commits a~~
20 ~~misdemeanor of the first degree.~~

21 ~~(4) An individual who violates section 3802(c) or (d)~~
22 ~~and who has one or more prior offenses commits a misdemeanor~~
23 ~~of the first degree.~~

24 ~~§ 3804.— Penalties.~~

25 ~~(a) General impairment.— An individual who violates section~~
26 ~~3802(a) (relating to driving under influence of alcohol or~~
27 ~~controlled substance) shall be sentenced as follows:~~

28 ~~(1) For a first offense, to:~~

29 ~~(i) undergo a period of probation not to exceed six~~
30 ~~months;~~

1 ~~(ii) pay a fine of \$300;~~
2 ~~(iii) attend an alcohol highway safety school~~
3 ~~approved by the department; and~~
4 ~~(iv) comply with all drug and alcohol treatment~~
5 ~~requirements imposed under section 3814 (relating to drug~~
6 ~~and alcohol assessments) and section 3815 (relating to~~
7 ~~mandatory sentencing).~~

8 ~~(2) For a second offense, to:~~

9 ~~(i) undergo imprisonment for not less than five days~~
10 ~~nor more than six months;~~

11 ~~(ii) pay a fine of not less than \$300 nor more than~~
12 ~~\$2,500;~~

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 ~~(3) For a third or subsequent offense, to:~~

18 ~~(i) undergo imprisonment of not less than ten days~~
19 ~~nor more than two years;~~

20 ~~(ii) pay a fine of not less than \$500 nor more than~~
21 ~~\$5,000; and~~

22 ~~(iii) comply with all drug and alcohol treatment~~
23 ~~requirements imposed under sections 3814 and 3815.~~

24 ~~(b) High rate of blood alcohol; minors; commercial vehicles~~
25 ~~and school buses and school vehicles; accidents. Except as set~~
26 ~~forth in subsection (c), an individual who violates section~~
27 ~~3802(a)(1) where there was an accident resulting in bodily~~
28 ~~injury, serious bodily injury or death of any person or in~~
29 ~~damage to a vehicle or other property or who violates section~~
30 ~~3802(b), (c) or (f) shall be sentenced as follows:~~

1 ~~(1) For a first offense, to:~~
2 ~~(i) undergo imprisonment of not less than 72~~
3 ~~consecutive hours nor more than six months;~~
4 ~~(ii) pay a fine of not less than \$500 nor more than~~
5 ~~\$5,000;~~
6 ~~(iii) attend an alcohol highway safety school~~
7 ~~approved by the department; and~~
8 ~~(iv) comply with all drug and alcohol treatment~~
9 ~~requirements imposed under sections 3814 and 3815.~~
10 ~~(2) For a second offense, to:~~
11 ~~(i) undergo imprisonment of not less than 30 days~~
12 ~~nor more than six months;~~
13 ~~(ii) pay a fine of not less than \$750 nor more than~~
14 ~~\$5,000;~~
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 offense, to:~~
20 ~~(i) undergo imprisonment of not less than 120 days~~
21 ~~nor more than five years;~~
22 ~~(ii) pay a fine of not less than \$1,500 nor more~~
23 ~~than \$10,000; and~~
24 ~~(iii) comply with all drug and alcohol treatment~~
25 ~~requirements imposed under sections 3814 and 3815.~~
26 ~~(4) For a fourth or subsequent offense, to:~~
27 ~~(i) undergo imprisonment of not less than one year~~
28 ~~nor more than five years;~~
29 ~~(ii) pay a fine of not less than \$1,500 nor more~~
30 ~~than \$10,000; and~~

1 ~~(iii) comply with all drug and alcohol treatment~~
2 ~~requirements imposed under sections 3814 and 3815.~~

3 ~~(c) Incapacity; highest blood alcohol; controlled~~
4 ~~substances. An individual who violates section 3802(a)(1) after~~
5 ~~having refused testing of blood or breath or who violates~~
6 ~~section 3802(c) or (d) shall be sentenced as follows:~~

7 ~~(1) For a first offense, to:~~

8 ~~(i) undergo imprisonment of not less than five~~
9 ~~consecutive days nor more than six months;~~

10 ~~(ii) pay a fine of not less than \$1,000 nor more~~
11 ~~than \$5,000;~~

12 ~~(iii) attend an alcohol highway safety school~~
13 ~~approved by the department; and~~

14 ~~(iv) comply with all drug and alcohol treatment~~
15 ~~requirements imposed under sections 3814 and 3815.~~

16 ~~(2) For a second offense, to:~~

17 ~~(i) undergo imprisonment of not less than 90 days~~
18 ~~nor more than five years;~~

19 ~~(ii) pay a fine of not less than \$1,500;~~

20 ~~(iii) attend an alcohol highway safety school~~
21 ~~approved by the department; and~~

22 ~~(iv) comply with all drug and alcohol treatment~~
23 ~~requirements imposed under sections 3814 and 3815.~~

24 ~~(3) For a third or subsequent offense, to:~~

25 ~~(i) undergo imprisonment of not less than one year~~
26 ~~nor more than five years;~~

27 ~~(ii) pay a fine of not less than \$2,500; and~~

28 ~~(iii) comply with all drug and alcohol treatment~~
29 ~~requirements imposed under sections 3814 and 3815.~~

30 ~~(d) Extended supervision of court. Where a person is~~

1 sentenced pursuant to this chapter and following the initial
2 assessment required by section 3814(1), the person is determined
3 to be in need of additional treatment pursuant to section
4 3814(2), the judge shall impose a minimum sentence as provided
5 by law and a maximum sentence equal to the statutorily available
6 maximum.

7 ~~(c) Suspension of operating privileges upon conviction.~~

8 ~~(1) The department shall suspend the operating privilege~~
9 ~~of an individual under paragraph (2) upon receiving a~~
10 ~~certified record of the individual's conviction of or an~~
11 ~~adjudication of delinquency for:~~

12 ~~(i) an offense under section 3802; or~~

13 ~~(ii) a substantially similar offense reported to the~~
14 ~~department under Article III of the compact in section~~
15 ~~1581 (relating to Driver's License Compact).~~

16 ~~(2) Suspension under paragraph (1)(i) shall be in~~
17 ~~accordance with the following:~~

18 ~~(i) Except as provided for in subparagraph (iii), 12~~
19 ~~months for an ungraded misdemeanor or misdemeanor of the~~
20 ~~second degree under this chapter.~~

21 ~~(ii) 24 months for a misdemeanor of the first degree~~
22 ~~under this chapter.~~

23 ~~(iii) There shall be no suspension for an ungraded~~
24 ~~misdemeanor under section 3802(a) where the person is~~
25 ~~subject to the penalties provided in subsection (a) and~~
26 ~~the person has no prior offense.~~

27 ~~(3) Notwithstanding any provision of law or enforcement~~
28 ~~agreement to the contrary, suspension imposed under paragraph~~
29 ~~(1)(ii) shall be in accordance with Chapter 15, Subchapter D~~
30 ~~(relating to the Driver's License Compact). In calculating~~

1 ~~the term of a suspension for an offense that is substantially~~
2 ~~similar to an offense enumerated in section 3802, the~~
3 ~~department shall presume that if the conduct reported had~~
4 ~~occurred in this Commonwealth then the person would have been~~
5 ~~convicted under section 3802(a)(2). The department shall~~
6 ~~suspend the operating privilege of a driver for six months~~
7 ~~upon receiving a certified record of a consent decree granted~~
8 ~~under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based~~
9 ~~on section 3802.~~

10 ~~(f) Community service assignments. In addition to the~~
11 ~~penalties set forth in this section, the sentencing judge may~~
12 ~~impose up to 150 hours of community service. Where the~~
13 ~~individual has been ordered to drug and alcohol treatment~~
14 ~~pursuant to sections 3814 and 3815, the community service shall~~
15 ~~be certified by the drug and alcohol treatment program as~~
16 ~~consistent with any drug and alcohol treatment requirements~~
17 ~~imposed under sections 3814 and 3815.~~

18 ~~(g) Court ordered ignition interlock. If the person has a~~
19 ~~prior offense as defined in section 3806(a), the court shall~~
20 ~~order the department to require an ignition interlock system~~
21 ~~under section 3805 (relating to ignition interlock).~~

22 ~~(h) Sentencing guidelines. The sentencing guidelines~~
23 ~~promulgated by the Pennsylvania Commission on Sentencing shall~~
24 ~~not supersede the mandatory penalties of this section.~~

25 ~~(i) Appeal. The Commonwealth has the right to appeal~~
26 ~~directly to the Superior Court any order of court which imposes~~
27 ~~a sentence for violation of this section which does not meet the~~
28 ~~requirements of this section. The Superior Court shall remand~~
29 ~~the case to the sentencing court for imposition of a sentence in~~
30 ~~accordance with the provisions of this section.~~

1 ~~(j) First class cities. Notwithstanding the provision for~~
2 ~~direct appeal to the Superior Court, if, in a city of the first~~
3 ~~class, a person appeals from a judgment of sentence under this~~
4 ~~section from the municipal court to the common pleas court for a~~
5 ~~trial de novo, the Commonwealth shall have the right to appeal~~
6 ~~directly to the Superior Court from the order of the common~~
7 ~~pleas court if the sentence imposed is in violation of this~~
8 ~~section. If, in a city of the first class, a person appeals to~~
9 ~~the court of common pleas after conviction of a violation of~~
10 ~~this section in the municipal court and thereafter withdraws his~~
11 ~~appeal to the common pleas court, thereby reinstating the~~
12 ~~judgment of sentence of the municipal court, the Commonwealth~~
13 ~~shall have 30 days from the date of the withdrawal to appeal to~~
14 ~~the Superior Court if the sentence is in violation of this~~
15 ~~section.~~

16 ~~(k) Additional conditions. In addition to any other penalty~~
17 ~~imposed under law, the court may sentence a person who violates~~
18 ~~section 3802 to any other requirement or condition consistent~~
19 ~~with the treatment needs of the person, the restoration of the~~
20 ~~victim to pre offense status or the protection of the public.~~

21 ~~§ 3805. Ignition interlock. (Reserved)~~

22 ~~§ 3806. Prior offenses.~~

23 ~~(a) General rule. Except as set forth in subsection (b),~~
24 ~~the term "prior offense" as used in this chapter shall mean a~~
25 ~~conviction, adjudication of delinquency, juvenile consent~~
26 ~~decree, acceptance of Accelerated Rehabilitative Disposition or~~
27 ~~other form of preliminary disposition before the sentencing on~~
28 ~~the present violation for any of the following:~~

29 ~~(1) an offense under former section 3731 (relating to~~
30 ~~driving under influence of alcohol or controlled substance);~~

1 ~~(2) an offense under section 3802 (relating to driving~~
2 ~~under influence of alcohol or controlled substance);~~

3 ~~(3) an offense substantially similar to an offense under~~
4 ~~paragraphs (1) or (2) in another jurisdiction; or~~

5 ~~(4) any combination of the offenses set forth in~~
6 ~~paragraphs (1), (2) or (3).~~

7 ~~(b) Exceptions. For purposes of section 3804 (relating to~~
8 ~~penalties), the calculation of prior and subsequent offenses~~
9 ~~shall include any conviction, adjudication of delinquency,~~
10 ~~juvenile consent decree, acceptance of Accelerated~~
11 ~~Rehabilitative Disposition or other form of preliminary~~
12 ~~disposition within the ten years before the present violation~~
13 ~~occurred for any of the following:~~

14 ~~(1) an offense under former section 3731;~~

15 ~~(2) an offense under section 3802;~~

16 ~~(3) an offense substantially similar to an offense under~~
17 ~~paragraph (1) or (2) in another jurisdiction; or~~

18 ~~(4) any combination of the offenses set forth in~~
19 ~~paragraph (1), (2) or (3).~~

20 ~~§ 3807. Accelerated Rehabilitative Disposition.~~

21 ~~(a) Eligibility.—~~

22 ~~(1) Except as set forth in paragraph (2), a defendant~~
23 ~~charged with a violation of section 3802 (relating to driving~~
24 ~~under influence of alcohol or controlled substance) may be~~
25 ~~considered by the attorney for the Commonwealth for~~
26 ~~participation in an Accelerated Rehabilitative Disposition~~
27 ~~program in a county if the program includes the minimum~~
28 ~~requirements contained in this section.~~

29 ~~(2) The attorney for the Commonwealth shall not submit a~~
30 ~~charge brought under this chapter for Accelerated~~

1 ~~Rehabilitative Disposition if any of the following apply:~~

2 ~~(i) The defendant has been found guilty of or~~
3 ~~accepted Accelerated Rehabilitative Disposition of a~~
4 ~~charge brought under section 3802 within ten years of the~~
5 ~~date of the current offense unless the charge was for an~~
6 ~~ungraded misdemeanor under section 3802(a)(2) and was the~~
7 ~~defendant's first offense under section 3802.~~

8 ~~(ii) An accident occurred in connection with the~~
9 ~~events surrounding the current offense and an individual~~
10 ~~other than the defendant was killed or suffered serious~~
11 ~~bodily injury as a result of the accident.~~

12 ~~(iii) There was a passenger under 14 years of age in~~
13 ~~the vehicle the defendant was operating.~~

14 ~~(b) Evaluation and treatment.—~~

15 ~~(1) A defendant offered Accelerated Rehabilitative~~
16 ~~Disposition for a violation of section 3802 is, as a~~
17 ~~condition of participation in the program, subject to the~~
18 ~~following requirements in addition to any other conditions of~~
19 ~~participation imposed by the court:~~

20 ~~(i) The defendant must attend and successfully~~
21 ~~complete an alcohol highway safety school established~~
22 ~~under section 1549 (relating to establishment of~~
23 ~~schools). A participating defendant shall be given both~~
24 ~~oral and written notice of the provisions of section~~
25 ~~1543(b) (relating to driving while operating privilege is~~
26 ~~suspended or revoked).~~

27 ~~(ii) Prior to receiving Accelerated Rehabilitative~~
28 ~~Disposition or other preliminary disposition, the~~
29 ~~defendant must be evaluated under section 3816(a)~~
30 ~~(relating to requirements for driving under influence~~

1 ~~offenders) to determine the extent of the defendant's~~
2 ~~involvement with alcohol or other drug and to assist the~~
3 ~~court in determining what conditions of Accelerated~~
4 ~~Rehabilitative Disposition would benefit the defendant~~
5 ~~and the public. If the evaluation indicates there is a~~
6 ~~need for counseling or treatment, the defendant shall be~~
7 ~~subject to a full assessment for alcohol and drug~~
8 ~~addiction in accordance with the provisions of section~~
9 ~~3814(3) and (4) (relating to drug and alcohol~~
10 ~~assessments).~~

11 ~~(iii) If the defendant is assessed under~~
12 ~~subparagraph (ii) to be in need of treatment, the~~
13 ~~defendant must participate and cooperate with a licensed~~
14 ~~alcohol or drug addiction treatment program. The level~~
15 ~~and duration of treatment shall be in accordance with the~~
16 ~~recommendations with the full assessment. Nothing in this~~
17 ~~subparagraph shall prevent a treatment program from~~
18 ~~refusing to accept a defendant if the program~~
19 ~~administrator deems the defendant to be inappropriate for~~
20 ~~admission to the program. A treatment program shall~~
21 ~~retain the right to immediately discharge into the~~
22 ~~custody of the probation officer an offender who fails to~~
23 ~~comply with program rules and treatment expectations or~~
24 ~~refuses to constructively engage in the treatment~~
25 ~~process.~~

26 ~~(iv) The defendant must remain subject to court~~
27 ~~supervision for six months.~~

28 ~~(v) The defendant must make restitution to any~~
29 ~~person that incurred determinable financial loss as a~~
30 ~~result of the defendant's actions which resulted in the~~

1 ~~offense. Restitution must be subject to court~~
2 ~~supervision.~~

3 ~~(vi) The defendant must pay the reasonable costs of~~
4 ~~a municipal corporation in connection with the offense.~~
5 ~~Fees imposed under this subparagraph shall be distributed~~
6 ~~to the affected municipal corporation.~~

7 ~~(vii) The defendant must pay any other fee,~~
8 ~~surcharge or cost required by law. Except as set forth in~~
9 ~~subparagraph (vi) or (viii), a fee or financial condition~~
10 ~~imposed by a judge as a condition of Accelerated~~
11 ~~Rehabilitative Disposition or any other preliminary~~
12 ~~disposition of any charge under this chapter shall be~~
13 ~~distributed as provided for in 42 Pa.C.S. §§ 3571~~
14 ~~(relating to Commonwealth portion of fines, etc.) and~~
15 ~~3573 (relating to municipal corporation portion of fines,~~
16 ~~etc.).~~

17 ~~(viii) The defendant must pay the costs of~~
18 ~~compliance with subparagraphs (i), (ii) and (iii).~~

19 ~~(2) The defendant shall be subject to a full assessment~~
20 ~~for alcohol and drug addiction if any of the following apply:~~

21 ~~(i) The evaluation under paragraph (1)(ii) indicates~~
22 ~~a likelihood that the defendant is addicted to alcohol or~~
23 ~~other drugs.~~

24 ~~(ii) The defendant's blood alcohol content at the~~
25 ~~time of the offense was at least .16%.~~

26 ~~(3) The assessment under paragraph (2) shall be~~
27 ~~conducted by one of the following:~~

28 ~~(i) The Department of Health or its designee.~~

29 ~~(ii) The county agency with responsibility for~~
30 ~~county drug and alcohol programs or its designee.~~

1 ~~(iii) The clinical personnel of a facility licensed~~
2 ~~by the Department of Health for the conduct of drug and~~
3 ~~alcohol addiction treatment programs.~~

4 ~~(4) The assessment under paragraph (2) shall consider~~
5 ~~issues of public safety and shall include recommendations for~~
6 ~~all of the following:~~

7 ~~(i) Length of stay.~~

8 ~~(ii) Levels of care.~~

9 ~~(iii) Follow up care and monitoring.~~

10 ~~(c) Insurance.—~~

11 ~~(1) This subsection shall only apply to a health~~
12 ~~insurance, health maintenance organization or other health~~
13 ~~plan required to provide benefits under section 602 A of the~~
14 ~~act of May 17, 1921 (P.L.682, No.284), known as The Insurance~~
15 ~~Company Law of 1921.~~

16 ~~(2) If an individual who is a subscriber to a health~~
17 ~~insurance, health maintenance organization or other health~~
18 ~~plan that is doing business in this Commonwealth, the~~
19 ~~individual may not be deprived of alcohol and other drug~~
20 ~~abuse and addiction treatment or coverage within the scope of~~
21 ~~that plan due to the identification of an alcohol or other~~
22 ~~drug problem which occurs as a result of an assessment under~~
23 ~~this section.~~

24 ~~(d) Mandatory suspension of operating privileges.—As a~~
25 ~~condition of participation in an Accelerated Rehabilitative~~
26 ~~Disposition program, the court shall order the defendant's~~
27 ~~license suspended as follows:~~

28 ~~(1) There shall be no license suspension if the~~
29 ~~defendant's blood alcohol concentration at the time of~~
30 ~~testing was less than .10%.~~

1 ~~(2) For 30 days, if the defendant's blood alcohol~~
2 ~~concentration at the time of testing was at least .10% but~~
3 ~~less than .16%.~~

4 ~~(3) For 60 days, if:~~

5 ~~(i) the defendant's blood alcohol concentration at~~
6 ~~the time of testing was .16% or higher;~~

7 ~~(ii) the defendant's blood alcohol concentration is~~
8 ~~not known; or~~

9 ~~(iii) an accident which resulted in bodily injury or~~
10 ~~in damage to a vehicle or other property occurred in~~
11 ~~connection with the events surrounding the current~~
12 ~~offense.~~

13 ~~(c) Failure to comply.—~~

14 ~~(1) A defendant who fails to complete any of the~~
15 ~~conditions of participation contained in this section shall~~
16 ~~be deemed to have unsuccessfully participated in an~~
17 ~~Accelerated Rehabilitative Disposition program, and the~~
18 ~~criminal record underlying participation in the program shall~~
19 ~~not be expunged.~~

20 ~~(2) The court shall direct the attorney for the~~
21 ~~Commonwealth to proceed on the charges as prescribed in the~~
22 ~~Rules of Criminal Procedure if the defendant:~~

23 ~~(i) fails to meet any of the requirements of this~~
24 ~~section;~~

25 ~~(ii) is charged with or commits an offense under 18~~
26 ~~Pa.C.S (relating to crimes and offenses); or~~

27 ~~(iii) violates any other condition imposed by the~~
28 ~~court.~~

29 ~~§ 3808. Illegally operating a motor vehicle not equipped with~~
30 ~~ignition interlock.~~

1 ~~(a) Offense defined.~~

2 ~~(1) An individual required to operate only a motor~~
3 ~~vehicle equipped with an approved ignition interlock system~~
4 ~~under section 1553(d.2) (relating to occupational limited~~
5 ~~license) or 3805 (relating to ignition interlock) who~~
6 ~~operates a motor vehicle on a highway of this Commonwealth~~
7 ~~without such a system commits a summary offense and shall,~~
8 ~~upon conviction, be sentenced to pay a fine of not less than~~
9 ~~\$300 and not more than \$1,000 and to imprisonment for not~~
10 ~~more than 90 days.~~

11 ~~(2) An individual required to operate only a motor~~
12 ~~vehicle equipped with an ignition interlock system under~~
13 ~~section 1553(d.2) or 3805 who operates a motor vehicle on a~~
14 ~~highway of this Commonwealth without such a system and who~~
15 ~~has an amount of alcohol by weight in his blood that is equal~~
16 ~~to or greater than .02% or who has any amount of a Schedule~~
17 ~~I, II or III controlled substance, as defined in the in the~~
18 ~~act of April 14, 1972 (P.L.233, No.64), known as The~~
19 ~~Controlled Substance, Drug, Device and Cosmetic Act, or its~~
20 ~~metabolite, which has not been medically prescribed for the~~
21 ~~individual commits a summary offense and shall, upon~~
22 ~~conviction, be sentenced to pay a fine of \$1,000 and to~~
23 ~~undergo imprisonment for a period of not less than 90 days.~~

24 ~~(b) Tampering with an interlock system. A person that~~
25 ~~tampers with an ignition interlock system required by law~~
26 ~~commits a summary offense and shall, upon conviction, be~~
27 ~~sentenced to pay a fine of not less than \$300 nor more than~~
28 ~~\$1,000 and to undergo imprisonment for not more than 90 days.~~
29 ~~The term "tampering" in addition to any physical act which is~~
30 ~~intended to alter or interfere with the proper functioning of an~~

1 ~~ignition interlock device required by law shall include~~
2 ~~attempting to circumvent or bypass or circumventing or bypassing~~
3 ~~an ignition interlock device by:~~

4 ~~(1) means of using another individual to provide a~~
5 ~~breath sample; or~~

6 ~~(2) providing a breath sample for the purpose of~~
7 ~~bypassing an ignition interlock device required by law.~~

8 ~~(c) Revocation of operating privilege. Upon receiving a~~
9 ~~certified record of the conviction of an individual under this~~
10 ~~section, the department shall revoke the individual's operating~~
11 ~~privilege for a period of one year.~~

12 ~~§ 3809. Restriction on alcoholic beverages.~~

13 ~~(a) General rule. Except as set forth in subsection (b), an~~
14 ~~individual who is an operator or an occupant in a motor vehicle~~
15 ~~may not be in possession of an open alcoholic beverage container~~
16 ~~or consume a controlled substance as defined in the act of April~~
17 ~~14, 1972 (P.L.233, No.64), known as The Controlled Substance,~~
18 ~~Drug, Device and Cosmetic Act, or an alcoholic beverage in a~~
19 ~~motor vehicle while the motor vehicle is located on a highway in~~
20 ~~this Commonwealth.~~

21 ~~(b) Exception. This section does not prohibit possession or~~
22 ~~consumption by any of the following:~~

23 ~~(1) A passenger in the passenger area of a motor vehicle~~
24 ~~designed, maintained or used primarily for the lawful~~
25 ~~transportation of persons for compensation. This paragraph~~
26 ~~includes buses, taxis and limousines.~~

27 ~~(2) An individual in the living quarters of a house~~
28 ~~coach or house trailer.~~

29 ~~(c) Penalty. An individual who violates this section~~
30 ~~commits a summary offense.~~

1 ~~§ 3810. Authorized use not a defense.~~

2 ~~The fact that a person charged with violating this chapter is~~
3 ~~or has been legally entitled to use alcohol or controlled~~
4 ~~substances is not a defense to a charge of violating this~~
5 ~~chapter.~~

6 ~~§ 3811. Certain arrests authorized.~~

7 ~~(a) Warrant not required. In addition to any other powers~~
8 ~~of arrest, a police officer is authorized to arrest an~~
9 ~~individual without a warrant if the officer has probable cause~~
10 ~~to believe that the individual has violated section 3802~~
11 ~~(relating to driving under influence of alcohol or controlled~~
12 ~~substance), regardless of whether the alleged violation was~~
13 ~~committed in the presence of the police officer.~~

14 ~~(b) Territory. The authority under subsection (a) extends~~
15 ~~to any hospital or other medical treatment facility located~~
16 ~~beyond the territorial limits of the police officer's political~~
17 ~~subdivision at which an individual to be arrested is found or~~
18 ~~was taken or removed for purposes of emergency treatment,~~
19 ~~examination or evaluation as long as there is probable cause to~~
20 ~~believe that the violation of section 3802 occurred within the~~
21 ~~police officer's political subdivision.~~

22 ~~§ 3812. Preliminary hearing or arraignment.~~

23 ~~The presiding judicial officer at the preliminary hearing or~~
24 ~~preliminary arraignment relating to a charge of a violation of~~
25 ~~section 3802 (relating to driving under influence of alcohol or~~
26 ~~controlled substance) shall not reduce or modify the original~~
27 ~~charges without the consent of the attorney for the~~
28 ~~Commonwealth.~~

29 ~~§ 3813. Work release.~~

30 ~~In any case in which an individual is sentenced to a period~~

1 ~~of imprisonment as a result of a conviction for violating a~~
2 ~~provision of this chapter, the judicial officer imposing the~~
3 ~~sentence shall consider assigning that individual to a daytime~~
4 ~~work release program. Any work release program permitted under~~
5 ~~this section shall be certified by the Drug and Alcohol~~
6 ~~Treatment program administration as being consistent with any~~
7 ~~drug and alcohol treatment requirements imposed under section~~
8 ~~3814 (relating to drug and alcohol assessments).~~

9 ~~§ 3814. Drug and alcohol assessments.~~

10 ~~If a defendant is convicted or pleads guilty or no contest to~~
11 ~~a violation of section 3802 (relating to driving under influence~~
12 ~~of alcohol or controlled substance), the following apply prior~~
13 ~~to sentencing:~~

14 ~~(1) The defendant shall be evaluated under section~~
15 ~~3816(a) (relating to requirements for driving under influence~~
16 ~~offenders) and any other additional evaluation techniques~~
17 ~~deemed appropriate by the court to determine the extent of~~
18 ~~the defendant's involvement with alcohol or other drug and to~~
19 ~~assist the court in determining what type of sentence would~~
20 ~~benefit the defendant and the public.~~

21 ~~(2) The defendant shall be subject to a full assessment~~
22 ~~for alcohol and drug addiction if any of the following~~
23 ~~subparagraphs apply:~~

24 ~~(i) The defendant, within ten years prior to the~~
25 ~~offense for which sentence is being imposed, has been~~
26 ~~sentenced for an offense under:~~

27 ~~(A) former section 3731 (relating to driving~~
28 ~~under influence of alcohol or controlled substance);~~

29 ~~(B) section 3802; or~~

30 ~~(C) an equivalent offense in another~~

1 jurisdiction.

2 (ii) ~~Either:~~

3 (A) ~~the evaluation under paragraph (1) indicates~~
4 ~~there is a need for counseling or treatment; or~~

5 (B) ~~the defendant's blood alcohol content at the~~
6 ~~time of the offense was at least .16%.~~

7 (3) ~~The assessment under paragraph (2) shall be~~
8 ~~conducted by one of the following:~~

9 (i) ~~The Department of Health or its designee.~~

10 (ii) ~~The county agency with responsibility for~~
11 ~~county drug and alcohol programs or its designee.~~

12 (iii) ~~The clinical personnel of a facility licensed~~
13 ~~by the Department of Health for the conduct of drug and~~
14 ~~alcohol addiction treatment programs.~~

15 (4) ~~The assessment under paragraph (2) shall consider~~
16 ~~issues of public safety and shall include recommendations for~~
17 ~~all of the following:~~

18 (i) ~~Length of stay.~~

19 (ii) ~~Levels of care.~~

20 (iii) ~~Follow up care and monitoring.~~

21 ~~§ 3815. Mandatory sentencing.~~

22 (a) ~~County supervision. Notwithstanding the length of any~~
23 ~~maximum term of imprisonment required by section 3804 (relating~~
24 ~~to penalties), the sentencing judge may subject the offender to~~
25 ~~the supervision of the county parole system.~~

26 (b) ~~Parole.—~~

27 (1) ~~An offender who is determined pursuant to section~~
28 ~~3814 (relating to drug and alcohol assessments) to be in need~~
29 ~~of drug and alcohol treatment shall be eligible for parole in~~
30 ~~accordance with the terms and conditions prescribed in this~~

1 ~~section following the expiration of the offender's mandatory~~
2 ~~minimum term of imprisonment.~~

3 ~~(2) The following shall be conditions of parole:~~

4 ~~(i) If the offender is not determined under the~~
5 ~~procedures set forth in section 3814 to be addicted to~~
6 ~~alcohol or another substance, the offender must refrain~~
7 ~~from:~~

8 ~~(A) the use of illegal controlled substances;~~

9 ~~and~~

10 ~~(B) the abuse of prescription drugs, over the~~
11 ~~counter drugs or any other substances.~~

12 ~~(ii) If the offender is determined under the~~
13 ~~procedures set forth in section 3814 to be addicted to~~
14 ~~alcohol or another substance, the offender must do all of~~
15 ~~the following:~~

16 ~~(A) Refrain from:~~

17 ~~(I) the use of alcohol or illegal controlled~~
18 ~~substances; and~~

19 ~~(II) the abuse of prescription drugs, over~~
20 ~~the counter drugs or any other substances.~~

21 ~~(B) Participate in and cooperate with drug and~~
22 ~~alcohol addiction treatment under subsection (c).~~

23 ~~(c) Treatment.—~~

24 ~~(1) Treatment must conform to assessment recommendations~~
25 ~~made under section 3814.~~

26 ~~(2) Treatment must be conducted by a drug and alcohol~~
27 ~~addiction treatment program licensed by the Department of~~
28 ~~Health.~~

29 ~~(3) The treatment program shall report periodically to~~
30 ~~the assigned parole officer on the offender's progress in the~~

1 ~~treatment program. The treatment program shall promptly~~
2 ~~notify the parole officer if the offender:~~

3 ~~(i) fails to comply with program rules and treatment~~
4 ~~expectations;~~

5 ~~(ii) refuses to constructively engage in the~~
6 ~~treatment process; or~~

7 ~~(iii) without authorization terminates participation~~
8 ~~in the treatment program.~~

9 ~~(4) Upon notification under paragraph (3), the parole~~
10 ~~officer shall report the offender's actions to the parole~~
11 ~~authority and to the department for compliance with section~~
12 ~~1553(e) (relating to occupational limited license). The~~
13 ~~parole authority shall schedule a revocation hearing to~~
14 ~~consider recommendations of the parole officer and the~~
15 ~~treatment program.~~

16 ~~(5) Nothing in this subsection shall prevent a treatment~~
17 ~~program from refusing to accept an offender if the program~~
18 ~~administrator deems the offender to be inappropriate for~~
19 ~~admission to the program. A treatment program shall retain~~
20 ~~the right to immediately discharge into the custody of the~~
21 ~~assigned parole officer an offender who fails to comply with~~
22 ~~program rules and treatment expectations or refuses to~~
23 ~~constructively engage in the treatment process.~~

24 ~~(d) Enforcement.—~~

25 ~~(1) This subsection applies to an offender ordered to~~
26 ~~participate in a treatment program under subsection~~

27 ~~(b)(2)(ii) who:~~

28 ~~(i) fails to comply with program rules and treatment~~
29 ~~expectations;~~

30 ~~(ii) refuses to constructively engage in the~~

1 ~~treatment process; or~~

2 ~~(iii) terminates participation in the treatment~~
3 ~~program without authorization.~~

4 ~~(2) Notwithstanding any other provision of law, all of~~
5 ~~the following apply to an offender under paragraph (1):~~

6 ~~(i) The offender's parole, prerelease, work release~~
7 ~~or any other release status shall be revoked.~~

8 ~~(ii) The offender shall be ineligible for parole,~~
9 ~~prerelease, work release or any other release from the~~
10 ~~correctional facility prior to the expiration of the~~
11 ~~offender's maximum term unless the offender is permitted~~
12 ~~to be readmitted to a treatment program.~~

13 ~~(3) Nothing in this subsection shall be construed to~~
14 ~~grant a legal right to parole to an offender previously~~
15 ~~ineligible for parole, on the grounds that the offender is~~
16 ~~currently prepared to participate in, comply with and~~
17 ~~constructively engage in the treatment process. Under such~~
18 ~~circumstances, parole or reparole of the offender shall be at~~
19 ~~the parole authority's discretion.~~

20 ~~(c) Follow up. After an offender has completed the~~
21 ~~treatment program under subsection (c), the parole officer shall~~
22 ~~take reasonable steps to ensure that the offender does not abuse~~
23 ~~alcohol, use illegal controlled substances or abuse prescription~~
24 ~~drugs, over the counter drugs or any other such substances.~~
25 ~~These reasonable steps include requiring chemical testing and~~
26 ~~periodic reassessment of the offender by the treatment program.~~

27 ~~(f) Fees.—~~

28 ~~(1) Except as set forth in paragraph (2), the parole~~
29 ~~authority shall impose upon an offender subject to this~~
30 ~~section reasonable fees to cover the cost of any of the~~

1 following:

2 ~~(i) Chemical testing of the offender required under~~
3 ~~this section.~~

4 ~~(ii) An assessment of the offender required under~~
5 ~~this section.~~

6 ~~(iii) Drug or alcohol treatment provided in~~
7 ~~accordance with the assessment.~~

8 ~~(2) If the parole authority finds the offender to be~~
9 ~~unable to pay the full amount of the fees required by~~
10 ~~paragraph (1) and section 1541(d) (relating to period of~~
11 ~~disqualification, revocation or suspension of operating~~
12 ~~privilege), it shall require the offender to pay as much of~~
13 ~~the fee as is consistent with the offender's ability to pay~~
14 ~~and shall direct the assigned parole officer to establish a~~
15 ~~reasonable payment schedule for the offender to pay as much~~
16 ~~of the remaining fees as is consistent with the offender's~~
17 ~~ability to pay.~~

18 ~~(g) Insurance.—~~

19 ~~(1) This subsection shall only apply to a health~~
20 ~~insurance, health maintenance organization or other health~~
21 ~~plan required to provide benefits under section 602 A of the~~
22 ~~act of May 17, 1921 (P.L.682, No.284), known as The Insurance~~
23 ~~Company Law of 1921.~~

24 ~~(2) If an individual who is a subscriber to a health~~
25 ~~insurance, health maintenance organization or other health~~
26 ~~plan that is doing business in this Commonwealth, the~~
27 ~~individual may not be deprived of alcohol and other drug~~
28 ~~abuse and addiction treatment or coverage within the scope of~~
29 ~~that plan due to the identification of an alcohol or other~~
30 ~~drug problem which occurs as a result of an assessment under~~

1 ~~this section.~~

2 ~~(h) Additional funding. In order to support and augment the~~
3 ~~diagnostic assessment and treatment services provided under this~~
4 ~~section, the Department of Health, the department and the~~
5 ~~Pennsylvania Commission on Crime and Delinquency shall seek all~~
6 ~~available Federal funding, including funds available through the~~
7 ~~United States National Highway Traffic Safety Administration and~~
8 ~~the Department of Health and Human Services.~~

9 ~~§ 3816. Requirements for driving under influence offenders.~~

10 ~~(a) Evaluation using Court Reporting Network. In addition~~
11 ~~to any other requirements of the court, every person convicted~~
12 ~~of a violation of section 3802 (relating to driving under~~
13 ~~influence of alcohol or controlled substance) and every person~~
14 ~~offered accelerated rehabilitative disposition as a result of a~~
15 ~~charge of a violation of section 3802 shall, prior to sentencing~~
16 ~~or receiving accelerated rehabilitative disposition or other~~
17 ~~preliminary disposition, be evaluated using Court Reporting~~
18 ~~Network instruments issued by the department and any other~~
19 ~~additional evaluation techniques deemed appropriate by the court~~
20 ~~to determine the extent of the person's involvement with alcohol~~
21 ~~or controlled substances and to assist the court in determining~~
22 ~~what sentencing, probation or conditions of Accelerated~~
23 ~~Rehabilitative Disposition would benefit the person or the~~
24 ~~public.~~

25 ~~(b) Court ordered intervention or treatment. A record shall~~
26 ~~be submitted to the department as to whether the court did or~~
27 ~~did not order a defendant to attend drug and alcohol treatment~~
28 ~~pursuant to the requirements of sections 3804 (relating to~~
29 ~~penalties), 3814 (relating to drug and alcohol assessments) and~~
30 ~~3815 (relating to mandatory sentencing). If the court orders~~

1 ~~treatment, a report shall be forwarded to the department as to~~
2 ~~whether the defendant successfully completed the program. If a~~
3 ~~defendant fails to successfully complete a program of treatment~~
4 ~~as ordered by the court, the suspension shall remain in effect~~
5 ~~until the department is notified by the court that the defendant~~
6 ~~has successfully completed treatment and the defendant is~~
7 ~~otherwise eligible for restoration of his operating privilege.~~
8 ~~In order to implement the recordkeeping requirements of this~~
9 ~~section, the department and the court shall work together to~~
10 ~~exchange pertinent information about a defendant's case,~~
11 ~~including attendance and completion of treatment or failure to~~
12 ~~complete treatment.~~

13 ~~§ 3817. Reporting requirements for offenses.~~

14 ~~(a) Requirement. The department shall make an annual report~~
15 ~~on the administration of this chapter. The department, the~~
16 ~~courts and the Pennsylvania Sentencing Commission shall work~~
17 ~~together to exchange pertinent information necessary to complete~~
18 ~~this report.~~

19 ~~(b) Contents. The report shall include:~~

20 ~~(1) The number of offenders.~~

21 ~~(2) The number of offenders subject to section 3815~~
22 ~~(relating to mandatory sentencing).~~

23 ~~(3) The number of offenders sent to treatment for~~
24 ~~alcohol and drug problems and addiction.~~

25 ~~(4) The names of the treatment facilities providing~~
26 ~~treatment and the level of care and length of stay in~~
27 ~~treatment.~~

28 ~~(5) The number of offenders successfully completing~~
29 ~~treatment.~~

30 ~~(6) The number of suspended licenses returned after~~

1 ~~completion of treatment.~~

2 ~~(7) The number of first, second, third and subsequent~~
3 ~~offenders.~~

4 ~~(c) Recipients. The annual report shall be submitted to the~~
5 ~~Judiciary Committee, Public Health and Welfare Committee and~~
6 ~~Transportation Committee of the Senate; the Health and Human~~
7 ~~Services Committee, Judiciary Committee and Transportation~~
8 ~~Committee of the House of Representatives; and the Bureau of~~
9 ~~Drug and Alcohol Programs. The report shall be made available to~~
10 ~~the public.~~

11 ~~Section 17. Sections 6308(b) and 6506(a)(7) of Title 75 are~~
12 ~~amended to read:~~

13 ~~§ 6308. Investigation by police officers.~~

14 ~~* * *~~

15 ~~(b) Authority of police officer. Whenever a police officer~~
16 ~~is engaged in a systematic program of checking vehicles or~~
17 ~~drivers or has [articulable and reasonable grounds to suspect a~~
18 ~~violation of this title,] reasonable suspicion that a violation~~
19 ~~of this title is occurring or has occurred, he may stop a~~
20 ~~vehicle, upon request or signal, for the purpose of checking the~~
21 ~~vehicle's registration, proof of financial responsibility,~~
22 ~~vehicle identification number or engine number or the driver's~~
23 ~~license, or to secure such other information as the officer may~~
24 ~~reasonably believe to be necessary to enforce the provisions of~~
25 ~~this title.~~

26 ~~* * *~~

27 ~~§ 6506. Surcharge.~~

28 ~~(a) Levy and imposition. In addition to any fines, fees or~~
29 ~~penalties levied or imposed as provided by law, under this title~~
30 ~~or any other statute, a surcharge shall be levied for~~

1 ~~disposition in accordance with subsection (b) as follows:~~

2 ~~* * *~~

3 ~~(7) Upon conviction of offenses under section [3731]~~
4 ~~3802 (relating to driving under influence of alcohol or~~
5 ~~controlled substance), or upon admission to programs for~~
6 ~~Accelerated Rehabilitative Disposition for offenses~~
7 ~~enumerated in section [3731] 3802, a surcharge, respectively,~~
8 ~~of:~~

9 ~~(i) \$50 for the first offense.~~

10 ~~(ii) \$100 for the second offense.~~

11 ~~(iii) \$200 for the third offense.~~

12 ~~(iv) \$300 for the fourth and subsequent offenses.~~

13 ~~The provisions of this subsection shall not apply to any~~
14 ~~violation committed by the operator of a motorcycle, motor-~~
15 ~~driven cycle, pedalcycle, motorized pedalcycle or recreational~~
16 ~~vehicle not intended for highway use.~~

17 ~~Section 18. The addition of 75 Pa.C.S. §§ 3814 and 3815~~
18 ~~shall apply as follows:~~

19 ~~(1) Except as set forth in paragraph (2) or (3), after~~
20 ~~June 30, 2009, for an offender sentenced under this chapter.~~

21 ~~(2) On and after the effective date of this section, for~~
22 ~~an offender sentenced for a misdemeanor of the first degree.~~

23 ~~(3) After June 30, 2006, for an offender sentenced~~
24 ~~pursuant to section 3804(a)(3), (b)(2) and (c)(1).~~

25 ~~Section 19. The Department of Transportation has the~~
26 ~~following duties:~~

27 ~~(1) In order to implement the addition of 75 Pa.C.S. §~~
28 ~~3805, the following shall apply:~~

29 ~~(i) The department shall adopt and use guidelines,~~
30 ~~which shall be published in the Pennsylvania Bulletin.~~

1 ~~The guidelines shall not be subject to review under~~
2 ~~section 205 of the act of July 31, 1968 (P.L.769,~~
3 ~~No.240), referred to as the Commonwealth Documents Law,~~
4 ~~and the act of June 25, 1982 (P.L.633, No.181), known as~~
5 ~~the Regulatory Review Act.~~

6 ~~(ii) By September 30, 2004, the department shall, in~~
7 ~~accordance with law, promulgate regulations to replace~~
8 ~~the guidelines under subparagraph (i).~~

9 ~~(iii) The guidelines under subparagraph (i) shall:~~

10 ~~(A) take effect September 30, 2003, or~~

11 ~~immediately, whichever is later; and~~

12 ~~(B) expire on the earlier of:~~

13 ~~(I) the effective date of regulations under~~

14 ~~subparagraph (ii); or~~

15 ~~(II) September 30, 2005.~~

16 ~~(2) By October 1, 2004, the department shall promulgate~~
17 ~~regulations to implement 75 Pa.C.S. § 1549(b).~~

18 ~~Section 20. The addition of 75 Pa.C.S Ch. 38 is a~~
19 ~~continuation of former 75 Pa.C.S. § 3731. The repeal of 75~~
20 ~~Pa.C.S. § 3731 shall not affect offenses committed prior to the~~
21 ~~effective date of this section or civil and administrative~~
22 ~~penalties imposed as a result of those offenses.~~

23 ~~Section 21. This act shall take effect as follows:~~

24 ~~(1) The following provisions shall take effect~~
25 ~~immediately:~~

26 ~~(i) Section 19 of this act.~~

27 ~~(ii) This section.~~

28 ~~(2) The remainder of this act shall take effect~~
29 ~~September 30, 2003, or immediately, whichever is later.~~

30 SECTION 1. SECTION 7514 OF TITLE 18 OF THE PENNSYLVANIA

<—

1 CONSOLIDATED STATUTES IS REPEALED.

2 SECTION 2. CHAPTER 70 OF TITLE 42 IS REPEALED.

3 SECTION 3. SECTION 1547(D) OF TITLE 75 IS AMENDED TO READ:

4 § 1547. CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR
5 CONTROLLED SUBSTANCE.

6 * * *

7 (D) PRESUMPTIONS FROM AMOUNT OF ALCOHOL.--IF CHEMICAL
8 TESTING OF A PERSON'S BREATH, BLOOD OR URINE SHOWS:

9 (1) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF
10 AN ADULT IS 0.05% OR LESS, IT SHALL BE PRESUMED THAT THE
11 ADULT WAS NOT UNDER THE INFLUENCE OF ALCOHOL AND THE ADULT
12 SHALL NOT BE CHARGED WITH ANY VIOLATION UNDER SECTION
13 3731(A)(1), (4) OR (5) (RELATING TO DRIVING UNDER INFLUENCE
14 OF ALCOHOL OR CONTROLLED SUBSTANCE), OR, IF THE ADULT WAS SO
15 CHARGED PRIOR TO THE TEST, THE CHARGE SHALL BE VOID AB
16 INITIO. THIS FACT SHALL NOT GIVE RISE TO ANY PRESUMPTION
17 CONCERNING A VIOLATION OF SECTION 3731(A)(2) OR (3) OR (I).

18 (2) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD OF
19 AN ADULT IS IN EXCESS OF 0.05% BUT LESS THAN [0.10%] 0.08%,
20 THIS FACT SHALL NOT GIVE RISE TO ANY PRESUMPTION THAT THE
21 ADULT WAS OR WAS NOT UNDER THE INFLUENCE OF ALCOHOL, BUT THIS
22 FACT MAY BE CONSIDERED WITH OTHER COMPETENT EVIDENCE IN
23 DETERMINING WHETHER THE ADULT WAS OR WAS NOT UNDER THE
24 INFLUENCE OF ALCOHOL. THIS PROVISION SHALL NOT NEGATE THE
25 PROVISIONS OF SECTION 3731(I).

26 (3) THAT THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
27 OF:

28 (I) AN ADULT IS [0.10%] 0.08% OR MORE; OR

29 (II) A MINOR IS 0.02% OR MORE,

30 THIS FACT MAY BE INTRODUCED INTO EVIDENCE IF THE PERSON IS

1 CHARGED WITH VIOLATING SECTION 3731.

2 * * *

3 SECTION 4. SECTION 1548 OF TITLE 75 IS AMENDED BY ADDING A
4 SUBSECTION TO READ:

5 § 1548. REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS.

6 * * *

7 (G) IGNITION INTERLOCK SYSTEM.--

8 (1) WHERE A PERSON'S OPERATING PRIVILEGES HAVE BEEN
9 SUSPENDED OR REVOKED FOR A CONVICTION OF SECTION 3731, 3735
10 (RELATING TO HOMICIDE BY VEHICLE WHILE DRIVING UNDER
11 INFLUENCE) OR 3735.1 (RELATING TO AGGRAVATED ASSAULT BY
12 VEHICLE WHILE DRIVING UNDER THE INFLUENCE), OR A SIMILAR OUT-
13 OF-STATE OFFENSE, AND EITHER THE SENTENCING COURT HAS ENTERED
14 AN IGNITION INTERLOCK SYSTEM ORDER PURSUANT TO SECTION
15 3731(E)(10) OR THE PERSON HAS A PRIOR OFFENSE AS DEFINED IN
16 PARAGRAPH (8) NOTWITHSTANDING SECTION 3731(E)(10), AND THE
17 PERSON SEEKS A RESTORATION OF OPERATING PRIVILEGES, THE
18 DEPARTMENT SHALL REQUIRE AS A CONDITION OF ISSUING A
19 RESTRICTED LICENSE PURSUANT TO THIS SECTION THAT AT LEAST ONE
20 OF THE FOLLOWING OCCUR:

21 (I) AN IGNITION INTERLOCK PROVIDER CERTIFIES TO THE
22 DEPARTMENT THAT EACH CURRENTLY REGISTERED MOTOR VEHICLE
23 OWNED OR LEASED BY THE PERSON HAS BEEN EQUIPPED WITH AN
24 APPROVED IGNITION INTERLOCK SYSTEM AND SHALL REMAIN SO
25 FOR THE DURATION OF THE RESTRICTED LICENSE PERIOD.

26 (II) IF THERE ARE NO CURRENTLY REGISTERED MOTOR
27 VEHICLES OWNED OR LEASED BY THE PERSON, THE PERSON SO
28 CERTIFIES TO THE DEPARTMENT. A PERSON SO CERTIFYING SHALL
29 BE DEEMED TO HAVE SATISFIED THE REQUIREMENT THAT ALL
30 CURRENTLY REGISTERED MOTOR VEHICLES OWNED OR LEASED BY

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

3 (III) THE SENTENCING COURT CERTIFIES TO THE
4 DEPARTMENT THAT EQUIPPING EACH CURRENTLY REGISTERED MOTOR
5 VEHICLE OWNED OR LEASED BY THE PERSON WITH AN IGNITION
6 INTERLOCK SYSTEM WOULD RESULT IN UNDUE FINANCIAL
7 HARDSHIP, AND AN IGNITION INTERLOCK PROVIDER CERTIFIES TO
8 THE DEPARTMENT THAT ONE CURRENTLY REGISTERED MOTOR
9 VEHICLE OWNED OR LEASED BY THE PERSON HAS BEEN EQUIPPED
10 WITH AN APPROVED IGNITION INTERLOCK SYSTEM AND SHALL
11 REMAIN SO FOR THE DURATION OF THE RESTRICTED LICENSE
12 PERIOD. IN MAKING A DETERMINATION REGARDING UNDUE
13 FINANCIAL HARDSHIP, THE COURT SHALL CONSIDER GUIDELINES,
14 IF ANY, IMPLEMENTING THIS SECTION PUBLISHED BY THE
15 DEPARTMENT IN THE PENNSYLVANIA BULLETIN.

16 (2) A PERSON SEEKING RESTORATION OF OPERATING PRIVILEGES
17 WHO IS SUBJECT TO PARAGRAPH (1) SHALL APPLY TO THE DEPARTMENT
18 FOR AN IGNITION INTERLOCK RESTRICTED LICENSE UNDER SECTION
19 1951(D) (RELATING TO DRIVER'S LICENSE AND LEARNER'S PERMIT)
20 WHICH WILL BE CLEARLY MARKED TO RESTRICT THE PERSON TO
21 OPERATING ONLY MOTOR VEHICLES EQUIPPED WITH AN APPROVED
22 IGNITION INTERLOCK SYSTEM.

23 (3) UNTIL SUCH TIME THAT THE PERSON OBTAINS AN
24 UNRESTRICTED LICENSE, A PERSON WHO HAS BEEN ISSUED AN
25 IGNITION INTERLOCK RESTRICTED LICENSE SHALL NOT OPERATE ANY
26 MOTOR VEHICLE ON A HIGHWAY WITHIN THIS COMMONWEALTH UNLESS
27 THE MOTOR VEHICLE IS EQUIPPED WITH AN APPROVED IGNITION
28 INTERLOCK SYSTEM.

29 (4) A PERSON WHO IS SUBJECT TO PARAGRAPH (1) MAY ONLY
30 APPLY FOR A LICENSE THAT DOES NOT CONTAIN THE IGNITION

1 INTERLOCK SYSTEM RESTRICTION ONE YEAR FROM THE DATE OF
2 ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE UNDER
3 THIS SECTION, IF OTHERWISE ELIGIBLE.

4 (5) THE DEPARTMENT SHALL BE IMMEDIATELY NOTIFIED OF ANY
5 REMOVAL OF AN IGNITION INTERLOCK SYSTEM REQUIRED UNDER THIS
6 SUBSECTION. UPON NOTIFICATION, THE DEPARTMENT SHALL CANCEL
7 THE PERSON'S IGNITION INTERLOCK RESTRICTED LICENSE UNTIL THE
8 PERSON MEETS THE REQUIREMENTS OF PARAGRAPH (1) AT WHICH TIME
9 THE DEPARTMENT SHALL ISSUE THE PERSON A NEW IGNITION
10 INTERLOCK RESTRICTED LICENSE PURSUANT TO PARAGRAPH (2).

11 (6) WHENEVER AN IGNITION INTERLOCK SYSTEM HAS BEEN
12 INSTALLED OR HAS BEEN CERTIFIED AS INSTALLED UNDER THIS
13 SUBSECTION, THE IGNITION INTERLOCK SYSTEM SHALL REMAIN
14 INSTALLED ON THE VEHICLE FOR THE ENTIRE PERIOD THE IGNITION
15 INTERLOCK SYSTEM IS REQUIRED TO BE INSTALLED.

16 (7) THE DEPARTMENT SHALL DEVELOP TRAINING PROGRAMS FOR
17 LAW ENFORCEMENT, COURT OFFICIALS AND PROBATION AND PAROLE
18 OFFICERS ON IGNITION INTERLOCK SYSTEMS INCLUDING THE PROPER
19 USE, IDENTIFICATION, TECHNOLOGY AND LIMITATIONS OF AN
20 IGNITION INTERLOCK SYSTEM.

21 (8) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND
22 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
23 PARAGRAPH:

24 "IGNITION INTERLOCK PROVIDER." A PERSON WHO HAS BEEN
25 APPROVED BY THE DEPARTMENT TO PROVIDE IGNITION INTERLOCK
26 SYSTEMS.

27 "IGNITION INTERLOCK SYSTEM." A SYSTEM APPROVED BY THE
28 DEPARTMENT THAT PREVENTS A VEHICLE FROM BEING STARTED OR
29 OPERATED UNLESS THE OPERATOR FIRST PROVIDES A BREATH SAMPLE
30 INDICATING THAT THE OPERATOR HAS AN ALCOHOL LEVEL OF LESS

1 THAN .025%. THE DEPARTMENT'S APPROVAL OF IGNITION INTERLOCK
2 SYSTEMS SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.

3 "PRIOR OFFENSE." A CONVICTION, ACCEPTANCE OF ACCELERATED
4 REHABILITATIVE DISPOSITION, ADJUDICATION OF DELINQUENCY OR
5 CONSENT DECREE UNDER 42 PA.C.S. CH. 63 (RELATING TO JUVENILE
6 MATTERS) OR ANY OTHER FORM OF PRELIMINARY DISPOSITION OF ANY
7 CHARGE BROUGHT UNDER SECTION 3731, 3735 OR 3735.1, OR A
8 SIMILAR OUT-OF-STATE OFFENSE, REGARDLESS OF THE DATE ON WHICH
9 THE CONVICTION, ACCEPTANCE OF ACCELERATED REHABILITATIVE
10 DISPOSITION, ADJUDICATION OF DELINQUENCY, CONSENT DECREE,
11 OTHER FORM OF PRELIMINARY DISPOSITION OR CONDUCT GIVING RISE
12 THERE TO OCCURRED.

13 SECTION 5. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:

14 § 1548.1. VIOLATION OF IGNITION INTERLOCK SYSTEM PROVISIONS.

15 (A) OPERATION WITHOUT INTERLOCK SYSTEM.--A PERSON REQUIRED
16 TO OPERATE ONLY MOTOR VEHICLES EQUIPPED WITH AN APPROVED
17 IGNITION INTERLOCK SYSTEM WHO OPERATES A MOTOR VEHICLE ON THE
18 HIGHWAYS OF THIS COMMONWEALTH WITHOUT AN APPROVED IGNITION
19 INTERLOCK SYSTEM COMMITS A MISDEMEANOR OF THE SECOND DEGREE AND
20 SHALL PAY A FINE OF NOT MORE THAN \$1,000.

21 (B) BYPASSING AN IGNITION INTERLOCK SYSTEM.--THE FOLLOWING
22 SHALL APPLY:

23 (1) A PERSON REQUIRED TO OPERATE ONLY MOTOR VEHICLES
24 EQUIPPED WITH AN APPROVED IGNITION INTERLOCK SYSTEM WHO
25 ATTEMPTS TO OR OPERATES A MOTOR VEHICLE BY USING ANOTHER
26 PERSON OR A DEVICE TO PROVIDE A BREATH SAMPLE TO THE IGNITION
27 INTERLOCK SYSTEM COMMITS A MISDEMEANOR OF THE THIRD DEGREE
28 AND SHALL PAY A FINE OF NOT MORE THAN \$500.

29 (2) A PERSON WHO PROVIDES A BREATH SAMPLE TO AN IGNITION
30 INTERLOCK SYSTEM UNDER PARAGRAPH (1) COMMITS A SUMMARY

1 OFFENSE.

2 (C) TAMPERING WITH IGNITION INTERLOCK SYSTEM.--A PERSON WHO
3 TAMPERS WITH AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW
4 COMMITTS A MISDEMEANOR OF THE THIRD DEGREE AND SHALL PAY A FINE
5 OF NOT MORE THAN \$500.

6 (D) SUSPENSION OR REVOCATION.--UPON RECEIVING A CERTIFIED
7 RECORD OF CONVICTION OF ANY PERSON UNDER SUBSECTION (A), (B)(1)
8 OR (C), THE DEPARTMENT SHALL SUSPEND OR REVOKE THE PERSON'S
9 OPERATING PRIVILEGE FOR A PERIOD OF ONE YEAR.

10 SECTION 6. SECTION 1553(D) OF TITLE 75 IS AMENDED BY ADDING
11 A PARAGRAPH TO READ:

12 § 1553. OCCUPATIONAL LIMITED LICENSE.

13 * * *

14 (D) UNAUTHORIZED ISSUANCE.--THE DEPARTMENT SHALL PROHIBIT
15 ISSUANCE OF AN OCCUPATIONAL LIMITED LICENSE TO:

16 * * *

17 (19) ANY PERSON WHO HAS HAD THE SUSPENSION OF AN
18 OPERATING PRIVILEGE REINSTATED UNDER THE PROVISIONS OF
19 SECTION 1548.1 (RELATING TO VIOLATION OF IGNITION INTERLOCK
20 SYSTEM PROVISIONS).

21 * * *

22 SECTION 7. SECTION 3731(A), (A.1) AND (E)(1) OF TITLE 75 ARE
23 AMENDED AND SUBSECTION (E) IS AMENDED BY ADDING PARAGRAPHS TO
24 READ:

25 § 3731. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
26 SUBSTANCE.

27 (A) OFFENSE DEFINED.--A PERSON SHALL NOT DRIVE, OPERATE OR
28 BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE IN
29 ANY OF THE FOLLOWING CIRCUMSTANCES:

30 (1) WHILE UNDER THE INFLUENCE OF ALCOHOL TO A DEGREE

1 WHICH RENDERS THE PERSON INCAPABLE OF SAFE DRIVING.

2 (2) WHILE UNDER THE INFLUENCE OF ANY CONTROLLED
3 SUBSTANCE, AS DEFINED IN THE ACT OF APRIL 14, 1972 (P.L.233,
4 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
5 COSMETIC ACT, TO A DEGREE WHICH RENDERS THE PERSON INCAPABLE
6 OF SAFE DRIVING.

7 (3) WHILE UNDER THE COMBINED INFLUENCE OF ALCOHOL AND
8 ANY CONTROLLED SUBSTANCE TO A DEGREE WHICH RENDERS THE PERSON
9 INCAPABLE OF SAFE DRIVING.

10 (4) WHILE THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
11 OF:

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

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

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

15 (1) IT IS PRIMA FACIE EVIDENCE THAT:

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

24 (II) A MINOR HAD 0.02% OR MORE BY WEIGHT OF ALCOHOL
25 IN HIS OR HER BLOOD AT THE TIME OF DRIVING, OPERATING OR
26 BEING IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF ANY
27 VEHICLE IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
28 OF THE MINOR IS EQUAL TO OR GREATER THAN 0.02% AT THE
29 TIME A CHEMICAL TEST IS PERFORMED ON A SAMPLE OF THE
30 PERSON'S BREATH, BLOOD OR URINE; AND

1 (III) A PERSON OPERATING A COMMERCIAL VEHICLE HAD
2 0.04% OR MORE BY WEIGHT OF ALCOHOL IN HIS OR HER BLOOD AT
3 THE TIME OF DRIVING, OPERATING OR BEING IN ACTUAL
4 PHYSICAL CONTROL OF THE MOVEMENT OF THE COMMERCIAL
5 VEHICLE IF THE AMOUNT OF ALCOHOL BY WEIGHT IN THE BLOOD
6 OF A PERSON OPERATING A COMMERCIAL VEHICLE IS EQUAL TO OR
7 GREATER THAN 0.04% AT THE TIME A CHEMICAL TEST IS
8 PERFORMED ON A SAMPLE OF THE PERSON'S BREATH, BLOOD OR
9 URINE.

10 (2) FOR THE PURPOSES OF THIS SECTION, THE CHEMICAL TEST
11 OF THE SAMPLE OF THE PERSON'S BREATH, BLOOD OR URINE SHALL BE
12 FROM A SAMPLE OBTAINED WITHIN THREE HOURS AFTER THE PERSON
13 DROVE, OPERATED OR WAS IN ACTUAL PHYSICAL CONTROL OF THE
14 VEHICLE.

15 * * *

16 (E) PENALTY.--

17 (1) [ANY] EXCEPT AS PROVIDED IN PARAGRAPH (1.1), ANY
18 PERSON VIOLATING ANY OF THE PROVISIONS OF THIS SECTION IS
19 GUILTY OF A MISDEMEANOR OF THE SECOND DEGREE, EXCEPT THAT A
20 PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE IS GUILTY
21 OF A MISDEMEANOR OF THE FIRST DEGREE, AND THE SENTENCING
22 COURT SHALL ORDER THE PERSON TO PAY A FINE OF NOT LESS THAN
23 \$300 AND SERVE A MINIMUM TERM OF IMPRISONMENT OF:

24 (I) NOT LESS THAN 48 CONSECUTIVE HOURS.

25 (II) NOT LESS THAN 30 DAYS IF THE PERSON HAS
26 PREVIOUSLY ACCEPTED ACCELERATED REHABILITATIVE
27 DISPOSITION OR ANY OTHER FORM OF PRELIMINARY DISPOSITION,
28 BEEN CONVICTED OF, ADJUDICATED DELINQUENT OR GRANTED A
29 CONSENT DECREE UNDER THE JUVENILE ACT (42 PA.C.S. § 6301
30 ET SEQ.) BASED ON AN OFFENSE UNDER THIS SECTION OR OF AN

1 EQUIVALENT OFFENSE IN THIS OR OTHER JURISDICTIONS WITHIN
2 THE PREVIOUS SEVEN YEARS.

3 (III) NOT LESS THAN 90 DAYS IF THE PERSON HAS TWICE
4 PREVIOUSLY BEEN CONVICTED OF, ADJUDICATED DELINQUENT OR
5 GRANTED A CONSENT DECREE UNDER THE JUVENILE ACT BASED ON
6 AN OFFENSE UNDER THIS SECTION OR OF AN EQUIVALENT OFFENSE
7 IN THIS OR OTHER JURISDICTIONS WITHIN THE PREVIOUS SEVEN
8 YEARS.

9 (IV) NOT LESS THAN ONE YEAR IF THE PERSON HAS THREE
10 TIMES PREVIOUSLY BEEN CONVICTED OF, ADJUDICATED
11 DELINQUENT OR GRANTED A CONSENT DECREE UNDER THE JUVENILE
12 ACT BASED ON AN OFFENSE UNDER THIS SECTION OR OF AN
13 EQUIVALENT OFFENSE IN THIS OR OTHER JURISDICTIONS WITHIN
14 THE PREVIOUS SEVEN YEARS.

15 (1.1) EXCEPT AS PROVIDED IN SUBSECTION (I), ANY PERSON
16 WHO VIOLATES THE PROVISIONS OF THIS SECTION WHILE THE AMOUNT
17 OF ALCOHOL BY WEIGHT IN THE BLOOD IS 0.08% OR GREATER BUT
18 LESS THAN 0.10% AND WHO HAS NOT PREVIOUSLY BEEN FOUND GUILTY
19 OF OR ACCEPTED ACCELERATED REHABILITATIVE DISPOSITION OF A
20 CHARGE BROUGHT UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR
21 OF THE THIRD DEGREE AND THE SENTENCING COURT SHALL ORDER THE
22 PERSON TO PAY A FINE OF NOT LESS THAN \$300 AND TO SERVE SIX
23 MONTHS OF PROBATION. THIS PARAGRAPH SHALL NOT APPLY IF AN
24 ACCIDENT OCCURRED IN CONNECTION WITH THE EVENTS SURROUNDING
25 THE CURRENT OFFENSE AND ANY PERSON OTHER THAN THE DEFENDANT
26 WAS KILLED OR SUFFERED SERIOUS BODILY INJURY AS A RESULT OF
27 THE ACCIDENT.

28 * * *

29 (10) IN ADDITION TO ANY OTHER REQUIREMENTS IMPOSED BY
30 THE COURT, WHERE A PERSON HAS BEEN CONVICTED OF AN OFFENSE

1 UNDER THIS SECTION, SECTION 3735 (RELATING TO HOMICIDE BY
2 VEHICLE WHILE DRIVING UNDER INFLUENCE) OR SECTION 3735.1
3 (RELATING TO AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING
4 UNDER THE INFLUENCE), THE COURT MAY ORDER THE INSTALLATION OF
5 AN IGNITION INTERLOCK SYSTEM ON EACH CURRENTLY REGISTERED
6 MOTOR VEHICLE OWNED OR LEASED BY THE PERSON TO BE EFFECTIVE
7 UPON THE RESTORATION OF OPERATING PRIVILEGES BY THE
8 DEPARTMENT. THE COURT SHALL SUBMIT A CERTIFIED RECORD OF THE
9 ENTRY OF THE ORDER TO THE DEPARTMENT WHENEVER THE COURT HAS
10 ENTERED AN ORDER PURSUANT TO THIS PARAGRAPH.

11 * * *

12 SECTION 8. THE ADDITION OF 75 PA.C.S. §§ 1548(G), 1548.1 AND
13 3731(E)(10) IS A CONTINUATION OF 18 PA.C.S. § 7514 AND 42
14 PA.C.S. CH. 70.

15 SECTION 9. THIS ACT SHALL TAKE EFFECT SEPTEMBER 30, 2003, OR
16 IMMEDIATELY, WHICHEVER IS LATER.