

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 8

Session of  
2003

---

Report of the Committee of Conference

---

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 8, entitled:

~~"An act amending Titles 18 (Crimes and Offenses), 30 (Fish), 34 (Game), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for impairment due to alcohol or controlled substances, \* \* \*; and making editorial changes. AMENDING TITLES 18 (CRIMES AND OFFENSES), 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE AND FOR REQUIREMENTS FOR DRIVING UNDER INFLUENCE OFFENDERS; \* \* \*; AND FURTHER PROVIDING FOR OCCUPATIONAL LIMITED LICENSE AND FOR DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE,"~~

respectfully submit the following bill as our report:

ROGER A. MADIGAN

CHARLES W. DENT

J. BARRY STOUT

(Committee on the part of the Senate.)

RICHARD A. GEIST

DENNIS M. O'BRIEN

KEITH R. McCALL

(Committee on the part of the House of Representatives.)

\*\*\*This page intentionally left blank\*\*\*

AN ACT

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

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

10 Section 1. Sections 6105(c)(3) and 7508.1(b) and (c) of  
11 Title 18 of the Pennsylvania Consolidated Statutes are amended  
12 to read:

13 § 6105. Persons not to possess, use, manufacture, control, sell  
14 or transfer firearms.

15 \* \* \*

16 (c) Other persons.--In addition to any person who has been  
17 convicted of any offense listed under subsection (b), the  
18 following persons shall be subject to the prohibition of  
19 subsection (a):

20 \* \* \*

21 (3) A person who has been convicted of driving under the  
22 influence of alcohol or controlled substance as provided in  
23 75 Pa.C.S. § [3731] 3802 (relating to driving under influence  
24 of alcohol or controlled substance) or the former 75 Pa.C.S.  
25 § 3731, on three or more separate occasions within a five-  
26 year period. For the purposes of this paragraph only, the  
27 prohibition of subsection (a) shall only apply to transfers  
28 or purchases of firearms after the third conviction.

29 \* \* \*

30 § 7508.1. Substance Abuse Education and Demand Reduction Fund.

31 \* \* \*

32 (b) Imposition.--Unless the court finds that undue hardship

1 would result, a mandatory cost of \$100, which shall be in  
2 addition to any other costs imposed pursuant to statutory  
3 authority, shall automatically be assessed on any individual  
4 convicted, adjudicated delinquent or granted Accelerated  
5 Rehabilitative Disposition or any individual who pleads guilty  
6 or nolo contendere for a violation of the act of April 14, 1972  
7 (P.L.233, No.64), known as The Controlled Substance, Drug,  
8 Device and Cosmetic Act, or a violation of 75 Pa.C.S. § [3731]  
9 3802 (relating to driving under influence of alcohol or  
10 controlled substance).

11 (c) Additional assessment.--In addition to the assessment  
12 required by subsection (b), a person convicted of or adjudicated  
13 delinquent for a violation of 75 Pa.C.S. § [3731] 3802 shall be  
14 assessed \$200 where the amount of alcohol by weight in the blood  
15 of the person is equal to or greater than [.15%] .16% at the  
16 time a chemical test is performed on a sample of the person's  
17 breath, blood or urine. For the purposes of this subsection, the  
18 sample of the person's blood, breath or urine shall be taken  
19 within two hours after the person is placed under arrest.

20 \* \* \*

21 Section 2. Sections 7513 and 7514 of Title 18 are repealed.

22 Section 3. Sections 933(a)(1)(ii), 1515(a)(5), 1725.3(a),  
23 3571(b)(4), 3573(b)(3), 7002(b) and 7003(5) of Title 42 are  
24 amended to read:

25 § 933. Appeals from government agencies.

26 (a) General rule.--Except as otherwise prescribed by any  
27 general rule adopted pursuant to section 503 (relating to  
28 reassignment of matters), each court of common pleas shall have  
29 jurisdiction of appeals from final orders of government agencies  
30 in the following cases:

1 (1) Appeals from Commonwealth agencies in the following  
2 cases:

3 \* \* \*

4 (ii) Determinations of the Department of  
5 Transportation appealable under the following provisions  
6 of Title 75 (relating to vehicles):

7 Section 1377 (relating to judicial review).

8 Section 1550 (relating to judicial review).

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

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

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

12 Except as otherwise prescribed by general rules, the  
13 venue shall be in the county of the principal place of  
14 business of any salvor or messenger service, the location  
15 of any inspection station involved, the county where the  
16 arrest for a violation of 75 Pa.C.S. § [3731] 3802  
17 (relating to driving under influence of alcohol or  
18 controlled substance) was made in appeals involving the  
19 suspension of operating privileges under 75 Pa.C.S. §  
20 1547 (relating to chemical testing to determine amount of  
21 alcohol or controlled substance) or the residence of any  
22 individual appellant where the venue is not otherwise  
23 fixed by this sentence. In the case of a nonresident  
24 individual venue, except as otherwise prescribed by  
25 general rules, shall be in the county in which the  
26 offense giving rise to the recall, cancellation,  
27 suspension or revocation of operating privileges  
28 occurred.

29 \* \* \*

30 § 1515. Jurisdiction and venue.

1 (a) Jurisdiction.--Except as otherwise prescribed by general  
2 rule adopted pursuant to section 503 (relating to reassignment  
3 of matters), district justices shall, under procedures  
4 prescribed by general rule, have jurisdiction of all of the  
5 following matters:

6 \* \* \*

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

10 (i) The offense is the first offense by the  
11 defendant under such provision in this Commonwealth.

12 (ii) No personal injury (other than to the defendant  
13 [or the immediate family of the defendant]) resulted from  
14 the offense.

15 (iii) The defendant pleads guilty.

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

18 (v) The defendant is not subject to the provisions  
19 of Chapter 63 (relating to juvenile matters).

20 (vi) The arresting authority shall cause to be  
21 transmitted a copy of the charge of any violation of 75  
22 Pa.C.S. § [3731] 3802 to the office of the clerk of the  
23 court of common pleas within five days after the  
24 preliminary arraignment.

25 In determining that the above criteria are met the district  
26 justice shall rely on the certification of the arresting  
27 authority. Certification that the criteria are met need not  
28 be in writing. Within ten days after the disposition, the  
29 district justice shall certify the disposition to the office  
30 of the clerk of the court of common pleas in writing.

1 \* \* \*

2 § 1725.3. Criminal laboratory user fee.

3 (a) Imposition.--A person who is placed on probation without  
4 verdict pursuant to section 17 of the act of April 14, 1972  
5 (P.L.233, No.64), known as The Controlled Substance, Drug,  
6 Device and Cosmetic Act, or who receives Accelerated  
7 Rehabilitative Disposition or who pleads guilty to or nolo  
8 contendere to or who is convicted of a crime as defined in 18  
9 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. §  
10 [3731] 1543(b)(1.1) (relating to driving while operating  
11 privilege is suspended or revoked) or 3802 (relating to driving  
12 under influence of alcohol or controlled substance) or 3735  
13 (relating to homicide by vehicle while driving under influence)  
14 or 3735.1 (relating to aggravated assault while driving under  
15 the influence) or 3808(a)(2) (relating to illegally operating a  
16 motor vehicle not equipped with ignition interlock) or a  
17 violation of The Controlled Substance, Drug, Device and Cosmetic  
18 Act shall, in addition to any fines, penalties or costs, in  
19 every case where laboratory services were required to prosecute  
20 the crime or violation, be sentenced to pay a criminal  
21 laboratory user fee which shall include, but not be limited to,  
22 the cost of sending a laboratory technician to court  
23 proceedings.

24 \* \* \*

25 § 3571. Commonwealth portion of fines, etc.

26 \* \* \*

27 (b) Vehicle offenses.--

28 \* \* \*

29 (4) When prosecution under 75 Pa.C.S. § [3731] 3802

30 (relating to driving under influence of alcohol or controlled

1 substance) is the result of State Police action, 50% of all  
2 fines, forfeited recognizances and other forfeitures imposed,  
3 lost or forfeited shall be payable to the Commonwealth, for  
4 credit to the Motor License Fund, and 50% shall be payable to  
5 the county which shall be further divided as follows:

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

13 (ii) Fifty percent of the moneys received shall be  
14 used for expenditures incurred for county jails, prisons,  
15 workhouses and detention centers.

16 \* \* \*

17 § 3573. Municipal corporation portion of fines, etc.

18 \* \* \*

19 (b) Vehicle offenses.--

20 \* \* \*

21 (3) When prosecution under 75 Pa.C.S. § [3731] 3802  
22 (relating to driving under influence of alcohol or controlled  
23 substance) is the result of local police action, 50% of all  
24 fines, forfeited recognizances and other forfeitures imposed,  
25 lost or forfeited shall be payable to the municipal  
26 corporation under which the local police are organized, and  
27 50% shall be payable to the county which shall be further  
28 divided as follows:

29 (i) Fifty percent of the moneys received shall be  
30 allocated to the appropriate county authority which



1 implements the county drug and alcohol program to be used  
2 solely for the purposes of aiding programs promoting drug  
3 abuse and alcoholism prevention, education, treatment and  
4 research. [Programs under this subparagraph include  
5 Project DARE (Drug and Alcohol Resistance Education).]

6 (ii) Fifty percent of the moneys received shall be  
7 used for expenditures incurred for county jails, prisons,  
8 workhouses and detention centers.

9 \* \* \*

10 § 7002. Ignition interlock systems for driving under the  
11 influence.

12 \* \* \*

13 (b) Second or subsequent offense.--In addition to any other  
14 requirements imposed by the court, where a person has been  
15 convicted of a second or subsequent violation of 75 Pa.C.S. §  
16 3731, the court shall order the installation of an approved  
17 ignition interlock device on each motor vehicle owned by the  
18 person to be effective upon the restoration of operating  
19 privileges by the department. A record shall be submitted to the  
20 department when the court has ordered the installation of an  
21 approved interlock ignition device. Before the department may  
22 restore such person's operating privilege, the department must  
23 receive a certification from the court that the ignition  
24 interlock system has been installed. If a second or subsequent  
25 violation of 75 Pa.C.S. § 3731 occurs after September 30, 2003,  
26 a court's failure to enter an order in compliance with this  
27 subsection shall not prevent the department from requiring, and  
28 the department shall require, the person to install an approved  
29 ignition interlock device in accordance with this chapter.

30 \* \* \*

1 § 7003. Additional driver's license restoration requirements.

2 In addition to any other requirements established for the  
3 restoration of a person's operating privileges under 75 Pa.C.S.  
4 § 1548 (relating to requirements for driving under influence  
5 offenders):

6 \* \* \*

7 [(5) A person whose operating privilege is suspended for  
8 a second or subsequent violation of 75 Pa.C.S. § 3731 or a  
9 similar out-of-State offense who does not apply for an  
10 ignition interlock restricted license shall not be eligible  
11 to apply for the restoration of operating privileges for an  
12 additional year after otherwise being eligible for  
13 restoration under paragraph (1).]

14 Section 4. Chapter 70 of Title 42 is repealed.

15 Section 5. Section 9763(c) 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 after imbibing alcohol  
29 or utilizing drugs); and

30 (ii) after undergoing an assessment under 75 Pa.C.S.

1           § 3814 (relating to drug and alcohol assessments).

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

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

13                   (i) by house arrest or electronic surveillance;

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

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

18           \* \* \*

19           Section 6. Section 9804(b)(3) of Title 42 is amended and the  
20 subsection is amended by adding paragraphs to read:

21 § 9804. County intermediate punishment programs.

22           \* \* \*

23           (b) Eligibility.--

24                   \* \* \*

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

30                   (i) a residential inpatient program or a residential

1 rehabilitative center;

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

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

7 (4) (i) Any person receiving a penalty imposed pursuant  
8 to 75 Pa.C.S. § 1543(b) (relating to driving while  
9 operating privilege is suspended or revoked), 3804  
10 (relating to penalties) or 3808(a)(2) (relating to  
11 illegally operating a motor vehicle not equipped with  
12 ignition interlock) shall undergo an assessment under 75  
13 Pa.C.S. § 3814 (relating to drug and alcohol  
14 assessments).

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

23 (iii) If the defendant is determined not to be in  
24 need of drug and alcohol treatment, the defendant may  
25 only be sentenced to intermediate punishment program in:

26 (A) house arrest and electronic surveillance;

27 (B) partial confinement programs, such as work  
28 release, work camps and halfway facilities; or

29 (C) any combination of the programs set forth in  
30 this paragraph.

1           (5) A defendant subject to 75 Pa.C.S § 3804 (relating to  
2           penalties) may only be sentenced to intermediate punishment  
3           for a first, second or third offense under 75 Pa.C.S. Ch. 38  
4           (relating to driving after imbibing alcohol or utilizing  
5           drugs).

6           Section 7. Sections 1516(c) and (d) and 1532(b)(3) of Title  
7 75 are amended to read:

8 § 1516. Department records.

9           \* \* \*

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

30          (d) Updating driving record.--Drivers wishing to have their

1 record reviewed by the department may make such a request in  
2 order that the record be brought up to date. In updating  
3 records, the department shall include recalculation of  
4 suspension or revocation segments and the assignment and  
5 crediting of any suspension or revocation time previously  
6 assigned or credited toward a suspension or revocation which  
7 resulted from a conviction which has been vacated, overturned,  
8 dismissed or withdrawn. Any fully or partially served suspension  
9 or revocation time may only be reassigned or credited toward a  
10 suspension or revocation segment processed on the driver's  
11 record as of the actual commencement date of the fully or  
12 partially served suspension or revocation time.

13 § 1532. Suspension of operating privilege.

14 \* \* \*

15 (b) Suspension.--

16 \* \* \*

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

30 \* \* \*

1 Section 8. Section 1534(b) of Title 75 is amended and the  
2 section is amended by adding subsections to read:

3 § 1534. Notice of acceptance of Accelerated Rehabilitative  
4 Disposition.

5 \* \* \*

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

16 (c) Expungement.--Immediately following the expiration of  
17 the ten-year period, the department shall expunge the record of  
18 the acceptance of Accelerated Rehabilitative Disposition. The  
19 Department shall not require an order of court to expunge the  
20 record.

21 (d) Exceptions to expungement.--The department shall not be  
22 required to expunge the record of acceptance of Accelerated  
23 Rehabilitative Disposition if:

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

29 Section 9. Sections 1539(c), 1541(a.1), (c) and (d),  
30 1542(b), 1543(b) and 1545 of Title 75 are amended to read:

1 § 1539. Suspension of operating privilege on accumulation of  
2 points.

3 \* \* \*

4 (c) Determination of subsequent suspensions.--Every  
5 suspension and revocation under any provision of this subchapter  
6 shall be counted in determining whether a suspension is a  
7 second, third or subsequent suspension. Acceptance of  
8 Accelerative Rehabilitative Disposition for an offense  
9 enumerated in section 1532 (relating to revocation or suspension  
10 of operating privilege) or 3802 (relating to driving under  
11 influence of alcohol or controlled substance) shall be  
12 considered a suspension in making such determination.

13 \* \* \*

14 § 1541. Period of disqualification, revocation or suspension of  
15 operating privilege.

16 \* \* \*

17 (a.1) Credit toward serving period of suspension for certain  
18 violations.--Credit toward serving the period of suspension or  
19 revocation imposed for sections [3731 (relating to driving under  
20 influence of alcohol or controlled substance),] 1543(b)(1.1)  
21 (relating to driving while operating privilege is suspended or  
22 revoked), 3732 (relating to homicide by vehicle), 3735 (relating  
23 to homicide by vehicle while driving under the influence) [and],  
24 3735.1 (relating to aggravated assault by vehicle while driving  
25 under the influence), 3802 (relating to driving under influence  
26 of alcohol or controlled substance) and 3808(a)(2) (relating to  
27 illegally operating a motor vehicle not equipped with ignition  
28 interlock) shall not commence until the date of the person's  
29 release from prison.

30 \* \* \*



1 (c) Restoration of revoked operating privilege.--Any person  
2 whose operating privilege has been revoked pursuant to section  
3 1542 (relating to revocation of habitual offender's license) or  
4 1543 [(relating to driving while operating privilege is  
5 suspended or revoked)] is not entitled to automatic restoration  
6 of the operating privilege. Such person may apply for a  
7 learner's permit, if permitted under the provisions of this  
8 chapter, upon expiration of the revocation.

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

30 § 1542. Revocation of habitual offender's license.

1 \* \* \*

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

6 (1) Any violation of Subchapter B of Chapter 37  
7 (relating to serious traffic offenses).

8 (1.1) Any violation of Chapter 38 (relating to driving  
9 after imbibing alcohol or utilizing drugs) except for  
10 sections 3808(a)(1) and (b) (relating to illegally operating  
11 a motor vehicle not equipped with ignition interlock) and  
12 3809 (relating to restriction on alcoholic beverages).

13 (1.2) Any violation of section 1543(b)(1.1) (relating to  
14 driving while operating privilege is suspended or revoked).

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

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

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

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

24 \* \* \*

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

27 \* \* \*

28 (b) Certain offenses.--

29 (1) A person who drives a motor vehicle on a highway or  
30 trafficway of this Commonwealth at a time when the person's

1 operating privilege is suspended or revoked as a condition of  
2 acceptance of Accelerated Rehabilitative Disposition for a  
3 violation of section [3731] 3802 (relating to driving under  
4 influence of alcohol or controlled substance) or the former  
5 section 3731, because of a violation of section 1547(b)(1)  
6 (relating to suspension for refusal) or [3731] 3802 or former  
7 section 3731 or is suspended under section 1581 (relating to  
8 Driver's License Compact) for an offense substantially  
9 similar to a violation of section [3731] 3802 or former  
10 section 3731 shall, upon conviction, be guilty of a summary  
11 offense and shall be sentenced to pay a fine of [\$1,000] \$500  
12 and to undergo imprisonment for a period of not less than  
13 [90] 60 days nor more than 90 days.

14 (1.1) (i) A person who has an amount of alcohol by  
15 weight in his blood that is equal to or greater than .02%  
16 at the time of testing or [is under the influence of a  
17 controlled substance as defined in section 1603 (relating  
18 to definitions)] who at the time of testing has in his  
19 blood any amount of a Schedule I or nonprescribed  
20 Schedule II or III 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, or  
23 its metabolite and who drives a motor vehicle on any  
24 highway or trafficway of this Commonwealth at a time when  
25 the person's operating privilege is suspended or revoked  
26 as a condition of acceptance of Accelerated  
27 Rehabilitative Disposition for a violation of section  
28 [3731] 3802 or former section 3731 or because of a  
29 violation of section 1547(b)(1) or [3731] 3802 or former  
30 section 3731 or is suspended under section 1581 for an

1 offense substantially similar to a violation of section  
2 [3731] 3802 or former section 3731 shall, upon a first  
3 conviction, be guilty of a summary offense and shall be  
4 sentenced to pay a fine of \$1,000 and to undergo  
5 imprisonment for a period of not less than 90 days.

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

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

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

30 \* \* \*

1 § 1545. Restoration of operating privilege.

2 Upon the restoration of any person's operating privilege  
3 which has been suspended or revoked pursuant to this subchapter  
4 or pursuant to Chapter 38 (relating to driving after imbibing  
5 alcohol or utilizing drugs), such person's record shall show  
6 five points, except that any additional points assessed against  
7 the person since the date of the last violation resulting in the  
8 suspension or revocation shall be added to such five points  
9 unless the person has served an additional period of suspension  
10 or revocation pursuant to section 1544(a) (relating to  
11 additional period of revocation or suspension). This section  
12 shall not apply to section 1533 (relating to suspension of  
13 operating privilege for failure to respond to citation) or to 18  
14 Pa.C.S. § 6310.4 (relating to restriction of operating  
15 privileges).

16 Section 9.1. Section 1547(a), (b)(1) and (2), (c), (d), (e)  
17 and (i) of Title 75 are amended and the section is amended by  
18 adding a subsection to read:

19 § 1547. Chemical testing to determine amount of alcohol or  
20 controlled substance.

21 (a) General rule.--Any person who drives, operates or is in  
22 actual physical control of the movement of a [motor] vehicle in  
23 this Commonwealth shall be deemed to have given consent to one  
24 or more chemical tests of breath, blood or urine for the purpose  
25 of determining the alcoholic content of blood or the presence of  
26 a controlled substance if a police officer has reasonable  
27 grounds to believe the person to have been driving, operating or  
28 in actual physical control of the movement of a [motor] vehicle:

29 (1) [while under the influence of alcohol or a  
30 controlled substance or both] in violation of section

1 1543(b)(1.1) (relating to driving while operating privilege  
2 is suspended or revoked), 3802 (relating to driving under  
3 influence of alcohol or controlled substance) or 3808(a)(2)  
4 (relating to illegally operating a motor vehicle not equipped  
5 with ignition interlock); or

6 (2) which was involved in an accident in which the  
7 operator or passenger of any vehicle involved or a pedestrian  
8 required treatment at a medical facility or was killed.

9 (b) Suspension for refusal.--

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

17 (i) Except as set forth in subparagraph (ii), for a  
18 period of 12 months.

19 (ii) For a period of 18 months if any of the  
20 following apply:

21 (A) The person's operating privileges have  
22 previously been suspended under this subsection.

23 (B) The person has, prior to the refusal under  
24 this paragraph, been sentenced for:

25 (I) an offense under section 3802;

26 (II) an offense under former section 3731;

27 (III) an offense equivalent to an offense  
28 under subclause (I) or (II); or

29 (IV) a combination of the offenses set forth  
30 in this clause.

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

3           (i) the person's operating privilege will be  
4 suspended upon refusal to submit to chemical testing[.];  
5 and

6           (ii) upon conviction, plea or adjudication of  
7 delinquency for violating section 3802(a), the person  
8 will be subject to the penalties provided in section  
9 3804(c) (relating to penalties).

10           \* \* \*

11 (b.1) Other suspension for refusal.--

12           (1) If any person placed under arrest for a violation of  
13 section 1543(b)(1.1) or 3808(a)(2) is requested to submit to  
14 chemical testing and refuses to do so, the testing shall not  
15 be conducted but upon notice by the police officer, and  
16 provided no suspension is imposed pursuant to subsection (b),  
17 the department shall suspend the operating privilege of the  
18 person for a period of six months.

19           (2) It shall be the duty of the police officer to inform  
20 the person that the person's operating privileges will be  
21 suspended upon refusal to submit to chemical testing.

22           (3) Notwithstanding section 3805(c) (relating to  
23 ignition interlock), if any person receives a suspension  
24 pursuant to this subsection who at the time of the offense  
25 was required to comply with the provisions of section 3805  
26 prior to obtaining a replacement license under section  
27 1951(d) (relating to driver's license and learner's license)  
28 that does not contain an ignition interlock restriction, the  
29 suspension imposed pursuant to this subsection shall result  
30 in the recall of any ignition interlock restricted license

1 previously issued and the driver shall surrender the ignition  
2 interlock restricted license to the department or its agents  
3 designated under the authority of section 1540 (relating to  
4 surrender of licenses) and prior to the issuance of a  
5 replacement license under section 1951(d) that does not  
6 contain an ignition interlock restriction, the department  
7 shall require that the person comply with the provisions of  
8 section 3805.

9 (c) Test results admissible in evidence.--In any summary  
10 proceeding or criminal proceeding in which the defendant is  
11 charged with a violation of section [3731] 3802 or any other  
12 violation of this title arising out of the same action, the  
13 amount of alcohol or controlled substance in the defendant's  
14 blood, as shown by chemical testing of the person's breath,  
15 blood or urine, which tests were conducted by qualified persons  
16 using approved equipment, shall be admissible in evidence.

17 (1) Chemical tests of breath shall be performed on  
18 devices approved by the Department of Health using procedures  
19 prescribed jointly by regulations of the Departments of  
20 Health and Transportation. Devices shall have been calibrated  
21 and tested for accuracy within a period of time and in a  
22 manner specified by regulations of the Departments of Health  
23 and Transportation. For purposes of breath testing, a  
24 qualified person means a person who has fulfilled the  
25 training requirement in the use of the equipment in a  
26 training program approved by the Departments of Health and  
27 Transportation. A certificate or log showing that a device  
28 was calibrated and tested for accuracy and that the device  
29 was accurate shall be presumptive evidence of those facts in  
30 every proceeding in which a violation of this title is



1 charged.

2 (2) (i) Chemical tests of blood or urine, if conducted  
3 by a facility located in this Commonwealth, shall be  
4 performed by a clinical laboratory licensed and approved  
5 by the Department of Health for this purpose using  
6 procedures and equipment prescribed by the Department of  
7 Health or by a Pennsylvania State Police criminal  
8 laboratory. For purposes of blood and urine testing,  
9 qualified person means an individual who is authorized to  
10 perform those chemical tests under the act of September  
11 26, 1951 (P.L.1539, No.389), known as The Clinical  
12 Laboratory Act.

13 (ii) For purposes of blood and urine testing to  
14 determine blood alcohol or controlled substance content  
15 levels, the procedures and equipment prescribed by the  
16 Department of Health shall be reviewed within 120 days of  
17 the effective date of this subparagraph and at least  
18 every two years thereafter to ensure that consideration  
19 is given to scientific and technological advances so that  
20 testing conducted in accordance with the prescribed  
21 procedures utilizing the prescribed equipment will be as  
22 accurate and reliable as science and technology permit.

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

26 (i) by a facility licensed and approved by the  
27 Department of Health for this purpose; or

28 (ii) by a facility licensed to conduct the tests by  
29 the state in which the facility is located and licensed  
30 pursuant to the Clinical Laboratory Improvement

1 Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).

2 (4) For purposes of blood testing to determine the  
3 amount of a Schedule I or nonprescribed Schedule II or III  
4 controlled substance or a metabolite of such a substance, the  
5 Department of Health shall prescribe minimum levels of these  
6 substances which must be present in a person's blood in order  
7 for the test results to be admissible in a prosecution for a  
8 violation of section 1543(b)(1.1), 3802(d)(1), (2) or (3) or  
9 3808(a)(2).

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

12 (1) That the amount of alcohol by weight in the blood of  
13 an adult is 0.05% or less, it shall be presumed that the  
14 adult was not under the influence of alcohol and the adult  
15 shall not be charged with any violation under section  
16 3731(a)(1), (4) or (5) (relating to driving under influence  
17 of alcohol or controlled substance), or, if the adult was so  
18 charged prior to the test, the charge shall be void ab  
19 initio. This fact shall not give rise to any presumption  
20 concerning a violation of section 3731(a)(2) or (3) or (i).

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

29 (3) That the amount of alcohol by weight in the blood  
30 of:

1 (i) an adult is [0.10%] .08% or more; or  
2 (ii) a minor is 0.02% or more,  
3 this fact may be introduced into evidence if the person is  
4 charged with violating section 3731.

5 (e) Refusal admissible in evidence.--In any summary  
6 proceeding or criminal proceeding in which the defendant is  
7 charged with a violation of section [3731] 3802 or any other  
8 violation of this title arising out of the same action, the fact  
9 that the defendant refused to submit to chemical testing as  
10 required by subsection (a) may be introduced in evidence along  
11 with other testimony concerning the circumstances of the  
12 refusal. No presumptions shall arise from this evidence but it  
13 may be considered along with other factors concerning the  
14 charge.

15 \* \* \*

16 (i) Request by driver for test.--Any person involved in an  
17 accident or placed under arrest for a violation of section  
18 [3731] 1543(b)(1.1), 3802 or 3808(a)(2) may request a chemical  
19 test of his breath, blood or urine. Such requests shall be  
20 honored when it is reasonably practicable to do so.

21 \* \* \*

22 Section 10. Section 1547(d) of Title 75 is repealed.

23 Section 11. Sections 1548, 1549(b) and 1552 of Title 75 are  
24 amended to read:

25 § 1548. Requirements for driving under influence offenders.

26 [(a) Evaluation using Court Reporting Network.--In addition  
27 to any other requirements of the court, every person convicted  
28 of a violation of section 3731 (relating to driving under  
29 influence of alcohol or controlled substance) and every person  
30 offered Accelerated Rehabilitative Disposition as a result of a

1 charge of a violation of section 3731 shall, prior to sentencing  
2 or receiving Accelerated Rehabilitative Disposition or other  
3 preliminary disposition, be evaluated using Court Reporting  
4 Network instruments issued by the department and any other  
5 additional evaluation techniques deemed appropriate by the court  
6 to determine the extent of the person's involvement with alcohol  
7 or controlled substances and to assist the court in determining  
8 what sentencing, probation or conditions of Accelerated  
9 Rehabilitative Disposition would benefit the person or the  
10 public.

11 (b) Attendance at alcohol highway safety school.--In  
12 addition to any other requirements of the court, every person  
13 convicted of a first offense under section 3731 and every person  
14 placed on Accelerated Rehabilitative Disposition or other  
15 preliminary disposition as a result of a charge of a violation  
16 of section 3731 shall, as a part of sentencing or as a condition  
17 of parole, probation or Accelerated Rehabilitative Disposition,  
18 be required to attend and successfully complete an approved  
19 alcohol highway safety school established pursuant to section  
20 1549 (relating to establishment of schools). All persons  
21 required to participate in this program shall be given both oral  
22 and written notice of the provisions of section 1543(b)  
23 (relating to driving while operating privilege is suspended or  
24 revoked). Persons convicted of a second or subsequent offense  
25 under section 3731 shall be required by the court to be treated  
26 for alcohol or drug addiction pursuant to subsection (d).]

27 (c) Results of evaluation.--

28 (1) This subsection shall apply as follows:

29 (i) To offenders sentenced under section 3804(a)(3),

30 (b)(2) and (c)(1) (relating to penalties) after January

1           31, 2004, and before July 1, 2006.

2           (ii) To offenders sentenced under section 3804(a)(1)  
3           and (2) and (b)(1) after January 31, 2004, and before  
4           July 1, 2009.

5           (2) Based on the results of evaluation and any  
6 additional information and evidence, the court may in  
7 addition to any other requirements of the court or this title  
8 determine and require, as part of sentencing or condition of  
9 parole, probation or Accelerated Rehabilitative Disposition  
10 or other preliminary disposition, that the person  
11 successfully complete a prescribed program of individual or  
12 group intervention or supervised inpatient or outpatient  
13 treatment or any combination of these programs or treatments  
14 for a period of up to [two years in duration] the statutorily  
15 available maximum. Any program of individual or group  
16 intervention or supervised inpatient or outpatient treatment  
17 shall be of a type approved by the Department of Health or  
18 operated by a facility or hospital that is under the  
19 authority of the United States Armed Forces or the Department  
20 of Veterans Affairs. Based on periodic reviews of the  
21 person's progress, the court may alter, modify or shorten or  
22 extend the duration of the requirements.

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

24 (d) Order for alcohol or drug commitment.--

25           (1) This subsection shall apply as follows:

26           (i) To offenders sentenced under section 3804(a)(3),  
27           (b)(2) and (c)(1) after January 31, 2004, and before July  
28           1, 2006.

29           (ii) To offenders sentenced under section 3804(a)(1)  
30           and (2) and (b)(1) after January 31, 2004, and before

1           July 1, 2009.

2           (2) If after evaluation and further examination and  
3 hearing it is determined that a defendant is an alleged  
4 chronic abuser of alcohol or controlled substances or that  
5 the person is a severely debilitated controlled substance or  
6 alcohol abuser who represents a demonstrated and serious  
7 threat, the court may order the person committed for  
8 treatment at a facility or institution approved by the  
9 Department of Health or operated by a facility or hospital  
10 that is under the authority of the United States Armed Forces  
11 or the Department of Veterans Affairs. If the defendant has  
12 been convicted of a previous violation of section 3731, the  
13 court shall order the person committed to a drug and alcohol  
14 treatment program licensed by the Office of Drug and Alcohol  
15 Programs of the Department of Health or operated by a  
16 facility or hospital that is under the authority of the  
17 United States Armed Forces or the Department of Veterans  
18 Affairs:

19           [(1)] (i) Any person subject to this subsection may be  
20 examined by an appropriate physician of the person's choosing  
21 and the result of the examination shall be considered by the  
22 court.

23           [(2)] (ii) Upon motion duly made by the committed  
24 person, an attorney or an attending physician, the court at  
25 any time after an order of commitment may review the order.  
26 After determining the progress of treatment, the court may  
27 order its continuation, the person's release or supervised  
28 treatment on an outpatient basis.

29           [(3)] (iii) Any person ordered by the court to receive  
30 treatment after a first offense, and any person required to

1 receive treatment after a second offense under section 3731  
2 must demonstrate to the court that the defendant has  
3 successfully completed treatment according to all guidelines  
4 required by the program before the person's operating  
5 privilege may be restored.

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

7 (e) Costs.--Costs of any and all requirements applied under  
8 this section shall be in addition to any other penalty required  
9 or allowed by law and shall be the responsibility of the person  
10 upon whom the requirements are placed. This subsection shall  
11 expire July 1, 2009.

12 (f) Court-ordered intervention or treatment.--

13 (1) This subsection shall apply as follows:

14 (i) To offenders sentenced under section 3804(a)(3),  
15 (b)(2) and (c)(1) after January 31, 2004, and before July  
16 1, 2006.

17 (ii) To offenders sentenced under section 3804(a)(1)  
18 and (2) and (b)(1) after January 31, 2004, and before  
19 July 1, 2009.

20 (2) A record shall be submitted to the department as to  
21 whether the court did or did not order a defendant to attend  
22 a program of supervised individual or group counseling  
23 treatment or supervised inpatient or outpatient treatment. If  
24 the court orders treatment, a report shall be forwarded to  
25 the department as to whether the defendant successfully  
26 completed the program. If a defendant fails to successfully  
27 complete a program of treatment as ordered by the court, the  
28 suspension shall remain in effect until the department is  
29 notified by the court that the defendant has successfully  
30 completed treatment and the defendant is otherwise eligible

1 for restoration of his operating privilege. In order to  
2 implement the recordkeeping requirements of this section, the  
3 department and the court shall work together to exchange  
4 pertinent information about a defendant's case, including  
5 attendance and completion of treatment or failure to complete  
6 treatment.

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

8 § 1549. Establishment of schools.

9 \* \* \*

10 (b) Alcohol highway safety schools.--

11 (1) Each county, multicounty judicial district or group  
12 of counties combined under one program shall, in compliance  
13 with regulations of the department and the Department of  
14 Health, establish and maintain a course of instruction on the  
15 problems of alcohol and driving. The time during which the  
16 course is offered shall accommodate persons' work schedules,  
17 including weekend and evening times.

18 (2) These regulations shall include, but not be limited  
19 to, a uniform curriculum for the course of instruction,  
20 training and certification requirements for instructors and  
21 provision for the giving of both oral and written notice of  
22 the provisions of section 1543(b) (relating to driving while  
23 operating privilege is suspended or revoked) to all program  
24 participants.

25 § 1552. Accelerated Rehabilitative Disposition.

26 The court of common pleas in each judicial district and the  
27 Municipal Court of Philadelphia shall establish and implement a  
28 program for Accelerated Rehabilitative Disposition for persons  
29 charged with a violation of section [3731] 3802 (relating to  
30 driving under influence of alcohol or controlled substance) in



1 accordance with the provisions of this chapter and rules adopted  
2 by the Supreme Court.

3 Section 12. Section 1553(b)(1), (c), (d)(6), (8) and (9),  
4 (e) and (f) of Title 75 are amended and the section is amended  
5 by adding subsections to read:

6 § 1553. Occupational limited license.

7 \* \* \*

8 (b) Petition.--

9 (1) The applicant for an occupational limited license  
10 must file a petition with the department, by certified mail,  
11 setting forth in detail the need for operating a motor  
12 vehicle. The petition shall be on a form prescribed by the  
13 department and shall identify the specific motor vehicle or  
14 vehicles the petitioner seeks permission to operate. The  
15 petition shall include an explanation as to why the operation  
16 of a motor vehicle is essential to the petitioner's  
17 occupation, work, trade, treatment or study. The petition  
18 shall identify the petitioner's employer, educational  
19 institution or treatment facility, as appropriate, and shall  
20 include proof of financial responsibility covering all  
21 vehicles which the petitioner requests to be allowed to  
22 operate. The department [may] shall promulgate regulations to  
23 require additional information as well as additional evidence  
24 to verify the information contained in the petition.

25 \* \* \*

26 (c) Fee.--The fee for applying for an occupational limited  
27 license shall be [\$25] \$50. This fee shall be nonrefundable and  
28 no other fee shall be required.

29 (d) Unauthorized issuance.--The department shall prohibit  
30 issuance of an occupational limited license to:

1 \* \* \*

2 (6) Any person who has been adjudicated delinquent,  
3 granted a consent decree or [convicted of] granted  
4 Accelerated Rehabilitative Disposition for driving under the  
5 influence of alcohol or controlled substance unless the  
6 suspension or revocation imposed for that conviction has been  
7 fully served.

8 \* \* \*

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

16 (9) [Any] Except as set forth in subsection (d.3), any  
17 person whose operating privilege has been suspended for a  
18 violation of 18 Pa.C.S. § 6308 (relating to purchase,  
19 consumption, possession or transportation of liquor or malt  
20 or brewed beverages) unless the suspension imposed has been  
21 fully served.

22 \* \* \*

23 (d.1) Adjudication eligibility.--An individual who has been  
24 convicted of an offense under section 3802 (relating to driving  
25 under influence of alcohol or controlled substance) and does not  
26 have a prior offense as defined in section 3806(a) (relating to  
27 prior offenses) shall be eligible for an occupational limited  
28 license only if the individual has served 60 days of the  
29 suspension imposed for the offense.

30 (d.2) Suspension eligibility.--

1           (1) An individual whose license has been suspended for a  
2 period of 18 months under section 1547(b)(1)(ii) (relating to  
3 chemical testing to determine amount of alcohol or controlled  
4 substance) or 3804(e)(2)(ii) (relating to penalties) shall  
5 not be prohibited from obtaining an occupational limited  
6 license under this section if the individual:

7           (i) is otherwise eligible for restoration;

8           (ii) has served 12 months of the suspension imposed  
9 for the offense;

10           (iii) has no more than one prior offense as defined  
11 in section 3806(b);

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

15           (v) 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 ignition interlock system as defined in  
25 section 3801 (relating to definitions) as a condition of  
26 issuing an occupational limited license with an ignition  
27 interlock restriction.

28           (d.3) Suspension eligibility related to Title 18  
29 violation.--An individual whose operating privilege has been  
30 suspended for a violation of 18 Pa.C.S. § 6308 shall be eligible

1 for an occupational limited license unless the individual has  
2 previously violated 18 Pa.C.S. § 6308.

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

13 (f) Restrictions.--A driver who has been issued an  
14 occupational limited license shall observe the following:

15 (1) The driver shall operate a designated vehicle only  
16 [between]:

17 (i) Between the driver's place of residence and  
18 place of employment or study and as necessary in the  
19 course of employment or conducting a business or pursuing  
20 a course of study where the operation of a motor vehicle  
21 is a requirement of employment or of conducting a  
22 business or of pursuing a course of study.

23 (ii) To and from a place for scheduled or emergency  
24 medical examination or treatment. This subparagraph  
25 includes treatment required under Chapter 38 (relating to  
26 driving after imbibing alcohol or utilizing drugs).

27 (2) A driver who has been issued an occupational limited  
28 license shall not operate a school bus.

29 (3) Any person who violates the conditions of issuance  
30 or restrictions of the occupational limited license commits a

1 summary offense and shall, upon conviction, pay a fine of  
2 \$200 and, upon receipt of a certified record of conviction,  
3 the department shall recall the limited license.

4 (4) The operating privilege of a driver who has been  
5 issued an occupational limited license remains under  
6 suspension or revocation except when operating a motor  
7 vehicle in accordance with the conditions of issuance or  
8 restrictions of the occupational limited license.

9 (5) A driver who has been issued an occupational limited  
10 license shall possess a completed occupational limited  
11 license affidavit on a form prescribed by the department at  
12 all times when operating a motor vehicle. The driver shall  
13 exhibit the completed form upon demand by a police officer.  
14 The affidavit shall indicate that the driver is operating the  
15 motor vehicle at a time and between places in accordance with  
16 the restrictions of paragraph (1). An occupational limited  
17 license affidavit shall contain information required by  
18 regulations which shall be promulgated by the department. The  
19 driver is not required to possess a completed occupational  
20 limited license affidavit when operating a motor vehicle to a  
21 location for emergency medical treatment.

22 Section 13. Sections 1554(f)(8), 1575(b), 1586, 1611(a)(1),  
23 3101(b), 3326(c), 3327(e), 3716(a) and 3731(a)(4)(i) and  
24 (a.1)(1)(i) of Title 75 are amended to read:

25 § 1554. Probationary license.

26 \* \* \*

27 (f) Unauthorized issuance.--The department shall not issue a  
28 probationary license to:

29 \* \* \*

30 (8) A person who has been convicted of a violation of

1 section [3731] 3802 (relating to driving under influence of  
2 alcohol or controlled substance) or former section 3731,  
3 within the preceding seven years.

4 \* \* \*

5 § 1575. Permitting violation of title.

6 \* \* \*

7 (b) Penalty.--Any person violating the provisions of  
8 subsection (a) is guilty of a summary offense and is subject to  
9 the same fine as the driver of the vehicle. If the driver is  
10 convicted under section [3731 (relating to driving under  
11 influence of alcohol or controlled substance) or] 3735 (relating  
12 to homicide by vehicle while driving under influence) or 3802  
13 (relating to driving under influence of alcohol or controlled  
14 substance), the person violating subsection (a) shall also be  
15 subject to suspension or revocation, as applicable, under  
16 sections 1532 (relating to revocation or suspension of operating  
17 privilege) [and] 1542 (relating to revocation of habitual  
18 offender's license) and 3804(e) (relating to penalties).

19 \* \* \*

20 § 1586. Duties of department.

21 The department shall, for purposes of imposing a suspension  
22 or revocation under Article IV of the compact, treat reports of  
23 convictions received from party states that relate to driving,  
24 operating or being in actual physical control of a vehicle while  
25 impaired by or under the influence of alcohol, intoxicating  
26 liquor, drugs, narcotics, controlled substances or other  
27 impairing or intoxicating substance as being substantially  
28 similar to section [3731] 3802 (relating to driving under the  
29 influence of alcohol or controlled substance). The fact that the  
30 offense reported to the department by a party state may require

1 a different degree of impairment of a person's ability to  
2 operate, drive or control a vehicle than that required to  
3 support a conviction for a violation of section [3731] 3802  
4 shall not be a basis for determining that the party state's  
5 offense is not substantially similar to section [3731] 3802 for  
6 purposes of Article IV of the compact.

7 § 1611. Disqualification.

8 (a) Disqualification for first violation of certain  
9 offenses.--Upon receipt of a certified copy of conviction, the  
10 department shall, in addition to any other penalties imposed  
11 under this title, disqualify any person from driving a  
12 commercial motor vehicle or school vehicle for a period of one  
13 year for the first violation of:

14 (1) section [3731] 3802 (relating to driving under the  
15 influence of alcohol or controlled substance) or former  
16 section 3731, where the violation occurred while the person  
17 was operating a commercial motor vehicle or school vehicle;

18 \* \* \*

19 § 3101. Application of part.

20 \* \* \*

21 (b) Serious traffic offenses.--The provisions of section  
22 3345 (relating to meeting or overtaking school bus) [and],  
23 Subchapter B of Chapter 37 (relating to serious traffic  
24 offenses) and Chapter 38 (relating to driving after imbibing  
25 alcohol or utilizing drugs) shall apply upon highways and  
26 trafficways throughout this Commonwealth.

27 § 3326. Duty of driver in construction and maintenance areas or  
28 on highway safety corridors.

29 \* \* \*

30 (c) Fines to be doubled.-- For any of the following

1 violations, when committed in an active work zone manned by  
2 workers acting in their official capacity or on a highway safety  
3 corridor designated under section 6105.1 (relating to  
4 designation of highway safety corridors), the fine shall be  
5 double the usual amount:

6           Section 3102 (relating to obedience to authorized  
7 persons directing traffic).

8           Section 3111 (relating to obedience to traffic-  
9 control devices).

10           Section 3112 (relating to traffic-control signals).

11           Section 3114 (relating to flashing signals).

12           Section 3302 (relating to meeting vehicle proceeding  
13 in opposite direction).

14           Section 3303 (relating to overtaking vehicle on the  
15 left).

16           Section 3304 (relating to overtaking vehicle on the  
17 right).

18           Section 3305 (relating to limitations on overtaking  
19 on the left).

20           Section 3306 (relating to limitations on driving on  
21 left side of roadway).

22           Section 3307 (relating to no-passing zones).

23           Section 3309 (relating to driving on roadways laned  
24 for traffic).

25           Section 3310 (relating to following too closely).

26           Section 3323 (relating to stop signs and yield  
27 signs).

28           Section 3326 (relating to duty of driver in  
29 construction and maintenance areas).

30           Section 3361 (relating to driving vehicle at safe



1 speed).

2 Section 3362 (relating to maximum speed limits).

3 Section 3702 (relating to limitations on backing).

4 Section 3714 (relating to careless driving).

5 [Section 3715 (relating to restriction on alcoholic  
6 beverages).

7 Section 3731 (relating to driving under influence of  
8 alcohol or controlled substance).]

9 Section 3736 (relating to reckless driving).

10 Section 3802 (relating to driving under influence of  
11 alcohol or controlled substance).

12 \* \* \*

13 § 3327. Duty of driver in emergency response areas.

14 \* \* \*

15 (e) Fines to be doubled.--In addition to any penalty as  
16 provided in subsection (b), the fine for any of the following  
17 violations when committed in an emergency response area manned  
18 by emergency service responders shall be double the usual  
19 amount:

20 Section 3102 (relating to obedience to authorized persons  
21 directing traffic).

22 Section 3111 (relating to obedience to traffic-control  
23 devices).

24 Section 3114 (relating to flashing signals).

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

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

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

1 Section 3305 (relating to limitations on overtaking on  
2 the left).

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

5 Section 3307 (relating to no-passing zones).

6 Section 3310 (relating to following too closely).

7 Section 3312 (relating to limited access highway  
8 entrances and exits).

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

10 Section 3325 (relating to duty of driver on approach of  
11 emergency vehicle).

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

13 Section 3707 (relating to driving or stopping close to  
14 fire apparatus).

15 Section 3710 (relating to stopping at intersection or  
16 crossing to prevent obstruction).

17 Section 3714 (relating to careless driving).

18 [Section 3715.1 (relating to restriction on alcoholic  
19 beverages).

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

22 Section 3736 (relating to reckless driving).

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

25 \* \* \*

26 § 3716. Accidents involving overturned vehicles.

27 (a) Speeding, careless driving, etc.--If a commercial motor  
28 vehicle overturns in an accident resulting from a violation of  
29 section 3361 (relating to driving vehicle at safe speed), 3362  
30 (relating to maximum speed limits), 3714 (relating to careless

1 driving) or [3731] 3802 (relating to driving under influence of  
2 alcohol or controlled substance), the operator of the vehicle  
3 shall, upon conviction of any of the aforementioned offenses, be  
4 sentenced to pay a fine of \$2,000, in addition to any other  
5 penalty authorized by law.

6 \* \* \*

7 § 3731. Driving under influence of alcohol or controlled  
8 substance.

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

12 \* \* \*

13 (4) While the amount of alcohol by weight in the blood  
14 of:

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

16 \* \* \*

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

18 (1) It is prima facie evidence that:

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

27 \* \* \*

28 Section 14. Section 3731 of Title 75 is repealed.

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

1 § 3732. Homicide by vehicle.

2 (a) Offense.--Any person who recklessly or with gross  
3 negligence causes the death of another person while engaged in  
4 the violation of any law of this Commonwealth or municipal  
5 ordinance applying to the operation or use of a vehicle or to  
6 the regulation of traffic except section [3731] 3802 (relating  
7 to driving under influence of alcohol or controlled substance)  
8 is guilty of homicide by vehicle, a felony of the third degree,  
9 when the violation is the cause of death.

10 \* \* \*

11 § 3735. Homicide by vehicle while driving under influence.

12 (a) Offense defined.--Any person who unintentionally causes  
13 the death of another person as the result of a violation of  
14 section [3731] 3802 (relating to driving under influence of  
15 alcohol or controlled substance) and who is convicted of  
16 violating section [3731] 3802 is guilty of a felony of the  
17 second degree when the violation is the cause of death and the  
18 sentencing court shall order the person to serve a minimum term  
19 of imprisonment of not less than three years. A consecutive  
20 three-year term of imprisonment shall be imposed for each victim  
21 whose death is the result of the violation of section [3731]  
22 3802.

23 \* \* \*

24 § 3735.1. Aggravated assault by vehicle while driving under the  
25 influence.

26 (a) Offense defined.--Any person who negligently causes  
27 serious bodily injury to another person as the result of a  
28 violation of section [3731] 3802 (relating to driving under  
29 influence of alcohol or controlled substance) and who is  
30 convicted of violating section [3731] 3802 commits a felony of

1 the second degree when the violation is the cause of the injury.

2 \* \* \*

3 § 3755. Reports by emergency room personnel.

4 (a) General rule.--If, as a result of a motor vehicle  
5 accident, the person who drove, operated or was in actual  
6 physical control of the movement of any involved motor vehicle  
7 requires medical treatment in an emergency room of a hospital  
8 and if probable cause exists to believe a violation of section  
9 [3731] 3802 (relating to driving under influence of alcohol or  
10 controlled substance) was involved, the emergency room physician  
11 or his designee shall promptly take blood samples from those  
12 persons and transmit them within 24 hours for testing to the  
13 Department of Health or a clinical laboratory licensed and  
14 approved by the Department of Health and specifically designated  
15 for this purpose. This section shall be applicable to all  
16 injured occupants who were capable of motor vehicle operation if  
17 the operator or person in actual physical control of the  
18 movement of the motor vehicle cannot be determined. Test results  
19 shall be released upon request of the person tested, his  
20 attorney, his physician or governmental officials or agencies.

21 \* \* \*

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

23 CHAPTER 38

24 DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING DRUGS

25 Sec.

26 3801. Definitions.

27 3802. Driving under influence of alcohol or controlled  
28 substance.

29 3803. Grading.

30 3804. Penalties.

- 1 3805. Ignition interlock.  
2 3806. Prior offenses.  
3 3807. Accelerated Rehabilitative Disposition.  
4 3808. Illegally operating a motor vehicle not equipped with  
5 ignition interlock.  
6 3809. Restriction on alcoholic beverages.  
7 3810. Authorized use not a defense.  
8 3811. Certain arrests authorized.  
9 3812. Preliminary hearing or arraignment.  
10 3813. Work release.  
11 3814. Drug and alcohol assessments.  
12 3815. Mandatory sentencing.  
13 3816. Requirements for driving under influence offenders.  
14 3817. Reporting requirements for offenses.  
15 § 3801. Definitions.

16 The following words and phrases when used in this chapter  
17 shall have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

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

20 "Ignition interlock system." A system approved by the  
21 department which prevents a vehicle from being started or  
22 operated unless the operator first provides a breath sample  
23 indicating that the operator has an alcohol level less than  
24 .025%.

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

26 § 3802. Driving under influence of alcohol or controlled  
27 substance.

28 (a) General impairment.--

29 (1) An individual may not drive, operate or be in actual  
30 physical control of the movement of a vehicle after imbibing

1 a sufficient amount of alcohol such that the individual is  
2 rendered incapable of safely driving, operating or being in  
3 actual physical control of the movement of the vehicle.

4 (2) An individual may not drive, operate or be in actual  
5 physical control of the movement of a vehicle after imbibing  
6 a sufficient amount of alcohol such that the alcohol  
7 concentration in the individual's blood or breath is at least  
8 .08% but less than .10% within two hours after the individual  
9 has driven, operated or been in actual physical control of  
10 the movement of the vehicle.

11 (b) High rate of alcohol.--An individual may not drive,  
12 operate or be in actual physical control of the movement of a  
13 vehicle after imbibing a sufficient amount of alcohol such that  
14 the alcohol concentration in the individual's blood or breath is  
15 at least .10% but less than .16% within two hours after the  
16 individual has driven, operated or been in actual physical  
17 control of the movement of the vehicle.

18 (c) Highest rate of alcohol.--An individual may not drive,  
19 operate or be in actual physical control of the movement of a  
20 vehicle after imbibing a sufficient amount of alcohol such that  
21 the alcohol concentration in the individual's blood or breath is  
22 .16% or higher within two hours after the individual has driven,  
23 operated or been in actual physical control of the movement of  
24 the vehicle.

25 (d) Controlled substances.--An individual may not drive,  
26 operate or be in actual physical control of the movement of a  
27 vehicle under any of the following circumstances:

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

29 (i) Schedule I controlled substance, as defined in

30 the act of April 14, 1972 (P.L.233, No.64), known as The

1 Controlled Substance, Drug, Device and Cosmetic Act;

2 (ii) Schedule II or Schedule III controlled  
3 substance, as defined in The Controlled Substance, Drug,  
4 Device and Cosmetic Act, which has not been medically  
5 prescribed for the individual; or

6 (iii) metabolite of a substance under subparagraph  
7 (i) or (ii).

8 (2) The individual is under the influence of a drug or  
9 combination of drugs to a degree which impairs the  
10 individual's ability to safely drive, operate or be in actual  
11 physical control of the movement of the vehicle.

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

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

20 (e) Minors.--A minor may not drive, operate or be in actual  
21 physical control of the movement of a vehicle after imbibing a  
22 sufficient amount of alcohol such that the alcohol concentration  
23 in the minor's blood or breath is .02% or higher within two  
24 hours after the minor has driven, operated or been in actual  
25 physical control of the movement of the vehicle.

26 (f) Commercial or school vehicles.--An individual may not  
27 drive, operate or be in actual physical control of the movement  
28 of a commercial vehicle, school bus or school vehicle in any of  
29 the following circumstances:

30 (1) After the individual has imbibed a sufficient amount



1 of alcohol such that the alcohol concentration in the  
2 individual's blood or breath is:

3 (i) .04% or greater within two hours after the  
4 individual has driven, operated or been in actual  
5 physical control of the movement of a commercial vehicle  
6 other than a school bus or a school vehicle.

7 (ii) .02% or greater within two hours after the  
8 individual has driven, operated or been in actual  
9 physical control of the movement of a school bus or a  
10 school vehicle.

11 (2) After the individual has imbibed a sufficient amount  
12 of alcohol such that the individual is rendered incapable of  
13 safely driving, operating or being in actual physical control  
14 of the movement of the vehicle.

15 (3) While the individual is under the influence of a  
16 controlled substance or combination of controlled substances,  
17 as defined in section 1603 (relating to definitions).

18 (4) While the individual is under the combined influence  
19 of alcohol and a controlled substance or combination of  
20 controlled substances, as defined in section 1603.

21 (g) Exception to two-hour rule.--Notwithstanding the  
22 provisions of subsection (a), (b), (c), (e) or (f), where  
23 alcohol or controlled substance concentration in an individual's  
24 blood or breath is an element of the offense, evidence of such  
25 alcohol or controlled substance concentration more than two  
26 hours after the individual has driven, operated or been in  
27 actual physical control of the movement of the vehicle is  
28 sufficient to establish that element of the offense under the  
29 following circumstances:

30 (1) where the Commonwealth shows good cause explaining

1 why the chemical test could not be performed within two  
2 hours; and

3 (2) where the Commonwealth establishes that the  
4 individual did not imbibe any alcohol or utilize a controlled  
5 substance between the time the individual was arrested and  
6 the time the sample was obtained.

7 § 3803. Grading.

8 (a) Basic offenses.--

9 (1) An individual who violates section 3802(a) (relating  
10 to driving under influence of alcohol or controlled  
11 substance) and has no more than one prior offense commits a  
12 misdemeanor for which the individual may be sentenced to a  
13 term of imprisonment of not more than six months and to pay a  
14 fine under section 3804 (relating to penalties).

15 (2) An individual who violates section 3802(a) and has  
16 more than one prior offense commits a misdemeanor of the  
17 second degree.

18 (b) Other offenses.--

19 (1) An individual who violates section 3802(b), (e) or  
20 (f) and who has no more than one prior offense commits a  
21 misdemeanor for which the individual may be sentenced to a  
22 term of imprisonment of not more than six months and to pay a  
23 fine under section 3804.

24 (2) An individual who violates section 3802(c) or (d)  
25 and who has no prior offenses commits a misdemeanor for which  
26 the individual may be sentenced to a term of imprisonment of  
27 not more than six months and to pay a fine under section  
28 3804.

29 (3) An individual who violates section 3802(b), (e) or  
30 (f) and who has more than one prior offense commits a

1       misdemeanor of the first degree.

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

5   § 3804. Penalties.

6       (a) General impairment.--An individual who violates section  
7   3802(a) (relating to driving under influence of alcohol or  
8   controlled substance) shall be sentenced as follows:

9           (1) For a first offense, to:

10           (i) undergo a period of probation not to exceed six  
11       months;

12           (ii) pay a fine of \$300;

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 section 3814 (relating to drug  
17       and alcohol assessments) and section 3815 (relating to  
18       mandatory sentencing).

19           (2) For a second offense, to:

20           (i) undergo imprisonment for not less than five days  
21       nor more than six months;

22           (ii) pay a fine of not less than \$300 nor more than  
23       \$2,500;

24           (iii) attend an alcohol highway safety school  
25       approved by the department; and

26           (iv) comply with all drug and alcohol treatment  
27       requirements imposed under sections 3814 and 3815.

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

29           (i) undergo imprisonment of not less than ten days  
30       nor more than two years;

1           (ii) pay a fine of not less than \$500 nor more than  
2           \$5,000; and

3           (iii) comply with all drug and alcohol treatment  
4           requirements imposed under sections 3814 and 3815.

5       (b) High rate of blood alcohol; minors; commercial vehicles  
6       and school buses and school vehicles; accidents.--Except as set  
7       forth in subsection (c), an individual who violates section  
8       3802(a)(1) where there was an accident resulting in bodily  
9       injury, serious bodily injury or death of any person or in  
10       damage to a vehicle or other property or who violates section  
11       3802(b), (e) or (f) shall be sentenced as follows:

12       (1) For a first offense, to:

13           (i) undergo imprisonment of not less than 48  
14           consecutive hours nor more than six months;

15           (ii) pay a fine of not less than \$500 nor more than  
16           \$5,000;

17           (iii) attend an alcohol highway safety school  
18           approved by the department; and

19           (iv) comply with all drug and alcohol treatment  
20           requirements imposed under sections 3814 and 3815.

21       (2) For a second offense, to:

22           (i) undergo imprisonment of not less than 30 days  
23           nor more than six months;

24           (ii) pay a fine of not less than \$750 nor more than  
25           \$5,000;

26           (iii) attend an alcohol highway safety school  
27           approved by the department; and

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

30       (3) For a third offense, to:

1 (i) undergo imprisonment of not less than 90 days  
2 nor more than five years;

3 (ii) pay a fine of not less than \$1,500 nor more  
4 than \$10,000; and

5 (iii) comply with all drug and alcohol treatment  
6 requirements imposed under sections 3814 and 3815.

7 (4) For a fourth or subsequent offense, to:

8 (i) undergo imprisonment of not less than one year  
9 nor more than five years;

10 (ii) pay a fine of not less than \$1,500 nor more  
11 than \$10,000; and

12 (iii) comply with all drug and alcohol treatment  
13 requirements imposed under sections 3814 and 3815.

14 (c) Incapacity; highest blood alcohol; controlled  
15 substances.--An individual who violates section 3802(a)(1) and  
16 refused testing of blood or breath or an individual who violates  
17 section 3802(c) or (d) shall be sentenced as follows:

18 (1) For a first offense, to:

19 (i) undergo imprisonment of not less than 72  
20 consecutive hours nor more than six months;

21 (ii) pay a fine of not less than \$1,000 nor more  
22 than \$5,000;

23 (iii) attend an alcohol highway safety school  
24 approved by the department; and

25 (iv) comply with all drug and alcohol treatment  
26 requirements imposed under sections 3814 and 3815.

27 (2) For a second offense, to:

28 (i) undergo imprisonment of not less than 90 days  
29 nor more than five years;

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

1 (iii) attend an alcohol highway safety school  
2 approved by the department; and

3 (iv) comply with all drug and alcohol treatment  
4 requirements imposed under sections 3814 and 3815.

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

6 (i) undergo imprisonment of not less than one year  
7 nor more than five years;

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

9 (iii) comply with all drug and alcohol treatment  
10 requirements imposed under sections 3814 and 3815.

11 (d) Extended supervision of court.--If a person is sentenced  
12 pursuant to this chapter and, after the initial assessment  
13 required by section 3814(1), the person is determined to be in  
14 need of additional treatment pursuant to section 3814(2), the  
15 judge shall impose a minimum sentence as provided by law and a  
16 maximum sentence equal to the statutorily available maximum. A  
17 sentence to the statutorily available maximum imposed pursuant  
18 to this subsection may, in the discretion of the sentencing  
19 court, be ordered to be served in a county prison,  
20 notwithstanding the provisions of 42 Pa.C.S. § 9762 (relating to  
21 sentencing proceeding and place of confinement).

22 (e) Suspension of operating privileges upon conviction.--

23 (1) The department shall suspend the operating privilege  
24 of an individual under paragraph (2) upon receiving a  
25 certified record of the individual's conviction of or an  
26 adjudication of delinquency for:

27 (i) an offense under section 3802; or

28 (ii) an offense which is substantially similar to an  
29 offense enumerated in section 3802 reported to the  
30 department under Article III of the compact in section

1 1581 (relating to Driver's License Compact).

2 (2) Suspension under paragraph (1) shall be in  
3 accordance with the following:

4 (i) Except as provided for in subparagraph (iii), 12  
5 months for an ungraded misdemeanor or misdemeanor of the  
6 second degree under this chapter.

7 (ii) 18 months for a misdemeanor of the first degree  
8 under this chapter.

9 (iii) There shall be no suspension for an ungraded  
10 misdemeanor under section 3802(a) where the person is  
11 subject to the penalties provided in subsection (a) and  
12 the person has no prior offense.

13 (iv) For suspensions imposed under paragraph  
14 (1)(ii), notwithstanding any provision of law or  
15 enforcement agreement to the contrary, all of the  
16 following apply:

17 (A) Suspensions shall be in accordance with  
18 Chapter 15, Subchapter D (relating to the Driver's  
19 License Compact).

20 (B) In calculating the term of a suspension for  
21 an offense that is substantially similar to an  
22 offense enumerated in section 3802, the department  
23 shall presume that if the conduct reported had  
24 occurred in this Commonwealth then the person would  
25 have been convicted under section 3802(a)(2).

26 (v) Notwithstanding any other provision of law or  
27 enforcement agreement to the contrary, the department  
28 shall suspend the operating privilege of a driver for six  
29 months upon receiving a certified record of a consent  
30 decree granted under 42 Pa.C.S. Ch. 63 (relating to

1 juvenile matters) based on section 3802.

2 (f) Community service assignments.--In addition to the  
3 penalties set forth in this section, the sentencing judge may  
4 impose up to 150 hours of community service. Where the  
5 individual has been ordered to drug and alcohol treatment  
6 pursuant to sections 3814 and 3815, the community service shall  
7 be certified by the drug and alcohol treatment program as  
8 consistent with any drug and alcohol treatment requirements  
9 imposed under sections 3814 and 3815.

10 (g) Sentencing guidelines.--The sentencing guidelines  
11 promulgated by the Pennsylvania Commission on Sentencing shall  
12 not supersede the mandatory penalties of this section.

13 (h) Appeal.--The Commonwealth has the right to appeal  
14 directly to the Superior Court any order of court which imposes  
15 a sentence for violation of this section which does not meet the  
16 requirements of this section. The Superior Court shall remand  
17 the case to the sentencing court for imposition of a sentence in  
18 accordance with the provisions of this section.

19 (i) First class cities.--Notwithstanding the provision for  
20 direct appeal to the Superior Court, if, in a city of the first  
21 class, a person appeals from a judgment of sentence under this  
22 section from the municipal court to the common pleas court for a  
23 trial de novo, the Commonwealth shall have the right to appeal  
24 directly to the Superior Court from the order of the common  
25 pleas court if the sentence imposed is in violation of this  
26 section. If, in a city of the first class, a person appeals to  
27 the court of common pleas after conviction of a violation of  
28 this section in the municipal court and thereafter withdraws his  
29 appeal to the common pleas court, thereby reinstating the  
30 judgment of sentence of the municipal court, the Commonwealth



1 shall have 30 days from the date of the withdrawal to appeal to  
2 the Superior Court if the sentence is in violation of this  
3 section.

4 (j) Additional conditions.--In addition to any other penalty  
5 imposed under law, the court may sentence a person who violates  
6 section 3802 to any other requirement or condition consistent  
7 with the treatment needs of the person, the restoration of the  
8 victim to pre-offense status or the protection of the public.

9 § 3805. Ignition interlock.

10 (a) General rule.--If a person violates section 3802  
11 (relating to driving under influence of alcohol or controlled  
12 substance) and has a prior offense as defined in section 3806(a)  
13 (relating to prior offenses) or if a person has had their  
14 operating privileges suspended pursuant to section 1547(b.1)  
15 (relating to chemical testing to determine amount of alcohol or  
16 controlled substance) or section 3808(c) (relating to illegally  
17 operating a motor vehicle not equipped with ignition interlock)  
18 and the person seeks a restoration of operating privileges, the  
19 department shall require as a condition of issuing a restricted  
20 license pursuant to this section that the following occur:

21 (1) Each motor vehicle owned by the person or registered  
22 to the person has been equipped with an ignition interlock  
23 system and remains so for the duration of the restricted  
24 license period.

25 (2) If there are no motor vehicles owned by the person  
26 or registered to the person that the person so certify to the  
27 department. A person so certifying shall be deemed to have  
28 satisfied the requirement that all motor vehicles owned by  
29 the person or registered to the person be equipped with an  
30 ignition interlock system as required by this subsection.

1 (b) Application for a restricted license.--A person subject  
2 to this section shall apply to the department for an ignition  
3 interlock restricted license under section 1951 (relating to  
4 driver's license and learner's permit), which shall be clearly  
5 marked to restrict the person to only driving, operating or  
6 being in actual physical control of the movement of motor  
7 vehicles equipped with an ignition interlock system. Upon  
8 issuance of an ignition interlock restricted license to any  
9 person, the department shall notify the person that until the  
10 person obtains an unrestricted license the person may not own,  
11 register, drive, operate or be in actual physical control of the  
12 movement of any motor vehicle which is not equipped with an  
13 ignition interlock system.

14 (c) Issuance of unrestricted license.--One year from the  
15 date of issuance of an ignition interlock restricted license  
16 under this section, if otherwise eligible, a person may be  
17 issued a replacement license under section 1951(d) that does not  
18 contain the ignition interlock system restriction.

19 (d) Prohibition.--Except as set forth in subsections (e) and  
20 (f), until the person obtains an unrestricted license, the  
21 person may not own, register, drive, operate or be in actual  
22 physical control of the movement of any motor vehicle within  
23 this Commonwealth unless the motor vehicle is equipped with an  
24 ignition interlock system.

25 (e) Economic hardship exemption.--A person subject to the  
26 requirements of subsection (a) may apply to the department for a  
27 hardship exemption to the requirement that an ignition interlock  
28 system must be installed in each of the person's motor vehicles.  
29 Where the department determines that the applicant establishes  
30 that such a requirement would result in undue financial

1 hardship, the department may permit the applicant to install an  
2 ignition interlock system on only one of the applicant's motor  
3 vehicles. However, the applicant in accordance with section 3808  
4 (relating to illegally operating a motor vehicle not equipped  
5 with ignition interlock) shall be prohibited from driving,  
6 operating or being in actual physical control of the movement of  
7 any motor vehicle, including any of the applicant's motor  
8 vehicles, which is not equipped with an ignition interlock  
9 system.

10 (f) Employment exemption.--If a person with a restricted  
11 license is required in the course and scope of employment to  
12 drive, operate or be in actual physical control of the movement  
13 of a motor vehicle owned by the person's employer, the following  
14 apply:

15 (1) Except as set forth in paragraph (2), the person may  
16 drive, operate or be in actual physical control of the  
17 movement of that motor vehicle in the course and scope of  
18 employment without installation of an ignition interlock  
19 system if:

20 (i) the employer has been notified that the employee  
21 is restricted; and

22 (ii) the employee has proof of the notification in  
23 the employee's possession while driving, operating or  
24 being in actual physical control of the movement of the  
25 employer's motor vehicle. Proof of the notification may  
26 be established only by the notarized signature of the  
27 employer acknowledging notification on a form which shall  
28 be provided by the department for this purpose and shall  
29 include a contact telephone number of the employer.

30 (2) Paragraph (1) does not apply in any of the following

1 circumstances:

2 (i) To the extent that an employer-owned motor  
3 vehicle is made available to the employee for personal  
4 use.

5 (ii) If the employer-owned motor vehicle is owned by  
6 an entity which is wholly or partially owned by the  
7 person subject to this section.

8 (iii) If the employer-owned motor vehicle is a  
9 school bus; a school vehicle; or a vehicle designed to  
10 transport more than 15 passengers, including the driver.

11 (g) Prohibition of authorization.--This section shall not  
12 give the department authorization to impose an ignition  
13 interlock requirement on a person that has committed an offense  
14 under former section 3731 (relating to driving under influence  
15 of alcohol or controlled substance) prior to October 1, 2003,  
16 without the issuance of a court order.

17 (h) Department approval.--An ignition interlock system  
18 required to be installed under this title must be a system which  
19 has been approved by the department. The department's approval  
20 of ignition interlock systems shall be published in the  
21 Pennsylvania Bulletin. Systems approved for use under former 42  
22 Pa.C.S. § 7002(d) (relating to ignition interlock systems for  
23 driving under the influence) and any contracts for the  
24 installation, maintenance and inspection of the systems in  
25 effect as of the effective date of this section shall continue  
26 to be approved and in effect until the department again  
27 publishes approval of ignition interlock systems in the  
28 Pennsylvania Bulletin and enters into new contracts in support  
29 of the systems.

30 (i) Offenses committed during a period for which an ignition

1 interlock restricted license has been issued.--Except as  
2 provided in sections 1547(b.1) and 3808(c) (relating to  
3 illegally operating a motor vehicle not equipped with ignition  
4 interlock), any driver who has been issued an ignition interlock  
5 restricted license and as to whom the department receives a  
6 certified record of a conviction of an offense for which the  
7 penalty is a cancellation, disqualification, recall, suspension  
8 or revocation of operating privileges shall have the ignition  
9 interlock restricted license recalled, and the driver shall  
10 surrender the ignition interlock restricted license to the  
11 department or its agents designated under the authority of  
12 section 1540 (relating to surrender of license). Following the  
13 completion of the cancellation, disqualification, recall,  
14 suspension or revocation which resulted in the recall of the  
15 ignition interlock restricted license, the department shall  
16 require that the person complete the balance of the ignition  
17 interlock restricted license period previously imposed prior to  
18 the issuance of a replacement license under section 1951(d) that  
19 does not contain an ignition interlock restriction.

20 § 3806. Prior offenses.

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

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

29 (2) an offense under former section 3731;

30 (3) an offense substantially similar to an offense under

1 paragraphs (1) or (2) in another jurisdiction; or  
2 (4) any combination of the offenses set forth in  
3 paragraphs (1), (2) or (3).

4 (b) Repeat offenses within ten years.--The calculation of  
5 prior offenses for purposes of sections 1553(d.2) (relating to  
6 occupational limited license) and 3804 (relating to penalties)  
7 shall include any conviction, adjudication of delinquency,  
8 juvenile consent decree, acceptance of Accelerated  
9 Rehabilitative Disposition or other form of preliminary  
10 disposition within the ten years before the present violation  
11 occurred for any of the following:

- 12 (1) an offense under section 3802;
- 13 (2) an offense under former section 3731;
- 14 (3) an offense substantially similar to an offense under  
15 paragraph (1) or (2) in another jurisdiction; or
- 16 (4) any combination of the offenses set forth in  
17 paragraph (1), (2) or (3).

18 § 3807. Accelerated Rehabilitative Disposition.

19 (a) Eligibility.--

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

27 (2) The attorney for the Commonwealth shall not submit a  
28 charge brought under this chapter for Accelerated  
29 Rehabilitative Disposition if any of the following apply:

- 30 (i) The defendant has been found guilty of or

1           accepted Accelerated Rehabilitative Disposition of a  
2           charge brought under section 3802 within ten years of the  
3           date of the current offense unless the charge was for an  
4           ungraded misdemeanor under section 3802(a)(2) and was the  
5           defendant's first offense under section 3802.

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

10          (iii) There was a passenger under 14 years of age in  
11          the motor vehicle the defendant was operating.

12          (b) Evaluation and treatment.--

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

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

25           (ii) Prior to receiving Accelerated Rehabilitative  
26          Disposition or other preliminary disposition, the  
27          defendant must be evaluated under section 3816(a)  
28          (relating to requirements for driving under influence  
29          offenders) to determine the extent of the defendant's  
30          involvement with alcohol or other drug and to assist the

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

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

24 (iv) The defendant must remain subject to court  
25 supervision for six months.

26 (v) The defendant must make restitution to any  
27 person that incurred determinable financial loss as a  
28 result of the defendant's actions which resulted in the  
29 offense. Restitution must be subject to court  
30 supervision.



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

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

15 (viii) The defendant must pay the costs of  
16 compliance with subparagraphs (i), (ii) and (iii).

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

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

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

24 (3) The assessment under paragraph (2) shall be  
25 conducted by one of the following:

26 (i) The Department of Health or its designee.

27 (ii) The county agency with responsibility for  
28 county drug and alcohol programs or its designee.

29 (iii) The clinical personnel of a facility licensed  
30 by the Department of Health for the conduct of drug and

1 alcohol addiction treatment programs.

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

5 (i) Length of stay.

6 (ii) Levels of care.

7 (iii) Follow-up care and monitoring.

8 (c) Insurance.--

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

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

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

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

29 (2) For 30 days, if the defendant's blood alcohol  
30 concentration at the time of testing was at least .10% but

1 less than .16%.

2 (3) For 60 days, if:

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

5 (ii) the defendant's blood alcohol concentration is  
6 not known; or

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

11 (e) Failure to comply.--

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

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

21 (i) fails to meet any of the requirements of this  
22 section;

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

25 (iii) violates any other condition imposed by the  
26 court.

27 § 3808. Illegally operating a motor vehicle not equipped with  
28 ignition interlock.

29 (a) Offense defined.--

30 (1) An individual required to only drive, operate or be

1 in actual physical control of the movement of a motor vehicle  
2 equipped with an ignition interlock system under section  
3 1553(d.2) (relating to occupational limited license) or 3805  
4 (relating to ignition interlock) who drives, operates or is  
5 in actual physical control of the movement of a motor vehicle  
6 within this Commonwealth without such a system commits a  
7 summary offense and shall, upon conviction, be sentenced to  
8 pay a fine of not less than \$300 and not more than \$1,000 and  
9 to imprisonment for not more than 90 days.

10 (2) An individual required to only drive, operate or be  
11 in actual physical control of the movement of a motor vehicle  
12 equipped with an ignition interlock system under section  
13 1553(d.2) or 3805 who drives, operates or is in actual  
14 physical control of the movement of a motor vehicle within  
15 this Commonwealth without such a system and who has an amount  
16 of alcohol by weight in his blood that is equal to or greater  
17 than .025% at the time of testing or who has in his blood any  
18 amount of a Schedule I or nonprescribed Schedule II or III  
19 controlled substance, as defined in the act of April 14, 1972  
20 (P.L.233, No.64), known as The Controlled Substance, Drug,  
21 Device and Cosmetic Act, or its metabolite commits a  
22 misdemeanor of the third degree and shall, upon conviction,  
23 be sentenced to pay a fine of \$1,000 and to undergo  
24 imprisonment for a period of not less than 90 days.

25 (b) Tampering with an ignition interlock system.--A person  
26 that tampers with an ignition interlock system required by law  
27 commits a misdemeanor of the third degree and shall, upon  
28 conviction, be sentenced to pay a fine of not less than \$300 nor  
29 more than \$1,000 and to undergo imprisonment for not more than  
30 90 days. The term "tampering" in addition to any physical act

1 which is intended to alter or interfere with the proper  
2 functioning of an ignition interlock system required by law  
3 shall include attempting to circumvent or bypass or  
4 circumventing or bypassing an ignition interlock system by:

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

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

9 (c) Suspension of operating privilege.--Notwithstanding  
10 section 3805(c) and (i):

11 (1) If a person who is required to only drive, operate  
12 or be in actual physical control of the movement of a motor  
13 vehicle equipped with an ignition interlock system violates  
14 this section, upon receipt of a certified record of the  
15 conviction, the department shall not issue a replacement  
16 license to the person under section 1951(d) (relating to  
17 driver's license and learner's permit) that does not contain  
18 an ignition interlock restriction for a period of one year  
19 from the date of conviction.

20 (2) Upon receipt of a certified record of a second  
21 conviction of a violation of this section committed by a  
22 person who is required to only drive, operate or be in actual  
23 physical control of the movement of a motor vehicle equipped  
24 with an ignition interlock system which occurred during the  
25 same ignition interlock restricted license period, the  
26 department shall suspend the person's operating privileges  
27 for a period of one year, recall the ignition interlock  
28 restricted license and the person shall surrender the  
29 ignition interlock restricted license to the department or  
30 its agents designated under the authority of section 1540

1 (relating to surrender of license). Following completion of  
2 the suspension period, the department shall require that the  
3 person comply with the requirements of section 3805 prior to  
4 being eligible to receive a replacement license under section  
5 1951(d) that does not contain an ignition interlock  
6 restriction.

7 (d) Applicability.--Notwithstanding section 3101 (relating  
8 to application of part), this section shall apply in all areas  
9 throughout this Commonwealth; however, it shall not apply to  
10 persons installing, maintaining or inspecting ignition interlock  
11 devices in the course and scope of their employment.

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 1543(b)(1.1)  
11 (relating to driving while operating privilege is suspended or  
12 revoked) or section 3802 (relating to driving under influence of  
13 alcohol or controlled substance) or 3808(a)(2) (relating to  
14 illegally operating a motor vehicle not equipped with ignition  
15 interlock), regardless of whether the alleged violation was  
16 committed in the presence of the police officer.

17 (b) Territory.--The authority under subsection (a) extends  
18 to any hospital or other medical treatment facility located  
19 beyond the territorial limits of the police officer's political  
20 subdivision at which an individual to be arrested is found or  
21 was taken or removed for purposes of emergency treatment,  
22 examination or evaluation as long as there is probable cause to  
23 believe that the violation of section 1543(b)(1.1), 3802 or  
24 3808(a)(2) occurred within the police officer's political  
25 subdivision.

26 § 3812. Preliminary hearing or arraignment.

27 The presiding judicial officer at the preliminary hearing or  
28 preliminary arraignment relating to a charge of a violation of  
29 section 1543(b)(1.1) (relating to driving while operating  
30 privilege is suspended or revoked), 3802 (relating to driving

1 under influence of alcohol or controlled substance) or  
2 3808(a)(2) (relating to illegally operating a motor vehicle not  
3 equipped with ignition interlock) shall not reduce or modify the  
4 original charges without the consent of the attorney for the  
5 Commonwealth.

6 § 3813. Work release.

7 In any case in which an individual is sentenced to a period  
8 of imprisonment as a result of a conviction for violating a  
9 provision of this chapter, the judicial officer imposing the  
10 sentence shall consider assigning that individual to a daytime  
11 work release program. Any work release program permitted under  
12 this section shall be certified by the Drug and Alcohol  
13 Treatment program administration as being consistent with any  
14 drug and alcohol treatment requirements imposed under section  
15 3814 (relating to drug and alcohol assessments).

16 § 3814. Drug and alcohol assessments.

17 If a defendant is convicted or pleads guilty or no contest to  
18 a violation of section 3802 (relating to driving under influence  
19 of alcohol or controlled substance), the following apply prior  
20 to sentencing:

21 (1) The defendant shall be evaluated under section  
22 3816(a) (relating to requirements for driving under influence  
23 offenders) and any other additional evaluation techniques  
24 deemed appropriate by the court to determine the extent of  
25 the defendant's involvement with alcohol or other drug and to  
26 assist the court in determining what type of sentence would  
27 benefit the defendant and the public.

28 (2) The defendant shall be subject to a full assessment  
29 for alcohol and drug addiction if any of the following  
30 subparagraphs apply:



1 (i) The defendant, within ten years prior to the  
2 offense for which sentence is being imposed, has been  
3 sentenced for an offense under:

4 (A) section 3802;

5 (B) former section 3731; or

6 (C) an equivalent offense in another  
7 jurisdiction.

8 (ii) Either:

9 (A) the evaluation under paragraph (1) indicates  
10 there is a need for counseling or treatment; or

11 (B) the defendant's blood alcohol content at the  
12 time of the offense was at least .16%.

13 (3) The assessment under paragraph (2) shall be  
14 conducted by one of the following:

15 (i) The Department of Health or its designee.

16 (ii) The county agency with responsibility for  
17 county drug and alcohol programs or its designee.

18 (iii) The clinical personnel of a facility licensed  
19 by the Department of Health for the conduct of drug and  
20 alcohol addiction treatment programs.

21 (4) The assessment under paragraph (2) shall consider  
22 issues of public safety and shall include recommendations for  
23 all of the following:

24 (i) Length of stay.

25 (ii) Levels of care.

26 (iii) Follow-up care and monitoring.

27 § 3815. Mandatory sentencing.

28 (a) County supervision.--Notwithstanding the length of any  
29 maximum term of imprisonment imposed pursuant to sections 3803  
30 (relating to grading) and 3804 (relating to penalties), and

1 notwithstanding the provisions of section 17 of the act of  
2 August 6, 1941 (P.L.861, No.323), referred to as the  
3 Pennsylvania Board of Probation and Parole Law, the sentencing  
4 judge may grant parole under the supervision of the county  
5 parole system to any offender serving a sentence for a violation  
6 of section 3802 (relating to driving under influence of alcohol  
7 or controlled substance) and, if applicable, serving any  
8 concurrent sentence of imprisonment for any misdemeanor offense  
9 arising from the same criminal episode as the violation of  
10 section 3802. The power of the sentencing judge to grant parole  
11 shall apply only to those offenders whose sentences are being  
12 served in a county prison, pursuant to 42 Pa.C.S. § 9762  
13 (relating to sentencing proceeding; place of confinement) or  
14 section 3804(d).

15 (b) Parole.--

16 (1) An offender who is determined pursuant to section  
17 3814 (relating to drug and alcohol assessments) to be in need  
18 of drug and alcohol treatment shall be eligible for parole in  
19 accordance with the terms and conditions prescribed in this  
20 section following the expiration of the offender's mandatory  
21 minimum term of imprisonment.

22 (2) The following shall be conditions of parole:

23 (i) If the offender is not determined under the  
24 procedures set forth in section 3814 to be addicted to  
25 alcohol or another substance, the offender must refrain  
26 from:

27 (A) the use of illegal controlled substances;

28 and

29 (B) the abuse of prescription drugs, over-the-  
30 counter drugs or any other substances.

1 (ii) If the offender is determined under the  
2 procedures set forth in section 3814 to be addicted to  
3 alcohol or another substance, the offender must do all of  
4 the following:

5 (A) Refrain from:

6 (I) the use of alcohol or illegal controlled  
7 substances; and

8 (II) the abuse of prescription drugs, over-  
9 the-counter drugs or any other substances.

10 (B) Participate in and cooperate with drug and  
11 alcohol addiction treatment under subsection (c).

12 (c) Treatment.--

13 (1) Treatment must conform to assessment recommendations  
14 made under section 3814.

15 (2) Treatment must be conducted by a drug and alcohol  
16 addiction treatment program licensed by the Department of  
17 Health.

18 (3) The treatment program shall report periodically to  
19 the assigned parole officer on the offender's progress in the  
20 treatment program. The treatment program shall promptly  
21 notify the parole officer if the offender:

22 (i) fails to comply with program rules and treatment  
23 expectations;

24 (ii) refuses to constructively engage in the  
25 treatment process; or

26 (iii) without authorization terminates participation  
27 in the treatment program.

28 (4) Upon notification under paragraph (3), the parole  
29 officer shall report the offender's actions to the parole  
30 authority and to the department for compliance with section

1 1553(e) (relating to occupational limited license). The  
2 parole authority shall schedule a revocation hearing to  
3 consider recommendations of the parole officer and the  
4 treatment program.

5 (5) Nothing in this subsection shall prevent a treatment  
6 program from refusing to accept an offender if the program  
7 administrator deems the offender to be inappropriate for  
8 admission to the program. A treatment program shall retain  
9 the right to immediately discharge into the custody of the  
10 assigned parole officer an offender who fails to comply with  
11 program rules and treatment expectations or refuses to  
12 constructively engage in the treatment process.

13 (d) Enforcement.--

14 (1) This subsection applies to an offender ordered to  
15 participate in a treatment program under subsection

16 (b)(2)(ii) who:

17 (i) fails to comply with program rules and treatment  
18 expectations;

19 (ii) refuses to constructively engage in the  
20 treatment process; or

21 (iii) terminates participation in the treatment  
22 program without authorization.

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

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

27 (ii) The offender shall be ineligible for parole,  
28 prerelease, work release or any other release from the  
29 correctional facility prior to the expiration of the  
30 offender's maximum term unless the offender is permitted

1 to be readmitted to a treatment program.

2 (3) Nothing in this subsection shall be construed to  
3 grant a legal right to parole to an offender previously  
4 ineligible for parole, on the grounds that the offender is  
5 currently prepared to participate in, comply with and  
6 constructively engage in the treatment process. Under such  
7 circumstances, parole or reparole of the offender shall be at  
8 the parole authority's discretion.

9 (e) Follow-up.--After an offender has completed the  
10 treatment program under subsection (c), the parole officer shall  
11 take reasonable steps to ensure that the offender does not abuse  
12 alcohol, use illegal controlled substances or abuse prescription  
13 drugs, over-the-counter drugs or any other such substances.  
14 These reasonable steps include requiring chemical testing and  
15 periodic reassessment of the offender by the treatment program.

16 (f) Fees.--

17 (1) Except as set forth in paragraph (2), the parole  
18 authority shall impose upon an offender subject to this  
19 section reasonable fees to cover the cost of any of the  
20 following:

21 (i) Chemical testing of the offender required under  
22 this section.

23 (ii) An assessment of the offender required under  
24 this section.

25 (iii) Drug or alcohol treatment provided in  
26 accordance with the assessment.

27 (2) If the parole authority finds the offender to be  
28 unable to pay the full amount of the fees required by  
29 paragraph (1) and section 1541(d) (relating to period of  
30 disqualification, revocation or suspension of operating

1 privilege), it shall require the offender to pay as much of  
2 the fee as is consistent with the offender's ability to pay  
3 and shall direct the assigned parole officer to establish a  
4 reasonable payment schedule for the offender to pay as much  
5 of the remaining fees as is consistent with the offender's  
6 ability to pay.

7 (g) Insurance.--

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

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

21 (h) Additional funding.--In order to support and augment the  
22 diagnostic assessment and treatment services provided under this  
23 section, the Department of Health, the department and the  
24 Pennsylvania Commission on Crime and Delinquency shall seek all  
25 available Federal funding, including funds available through the  
26 United States National Highway Traffic Safety Administration and  
27 the Department of Health and Human Services.

28 § 3816. Requirements for driving under influence offenders.

29 (a) Evaluation using Court Reporting Network.--In addition  
30 to any other requirements of the court, every person convicted

1 of a violation of section 3802 (relating to driving under  
2 influence of alcohol or controlled substance) and every person  
3 offered accelerated rehabilitative disposition as a result of a  
4 charge of a violation of section 3802 shall, prior to sentencing  
5 or receiving accelerated rehabilitative disposition or other  
6 preliminary disposition, be evaluated using Court Reporting  
7 Network instruments issued by the department and any other  
8 additional evaluation techniques deemed appropriate by the court  
9 to determine the extent of the person's involvement with alcohol  
10 or controlled substances and to assist the court in determining  
11 what sentencing, probation or conditions of Accelerated  
12 Rehabilitative Disposition would benefit the person or the  
13 public.

14 (b) Court-ordered intervention or treatment.--A record shall  
15 be submitted to the department as to whether the court did or  
16 did not order a defendant to attend drug and alcohol treatment  
17 pursuant to the requirements of sections 3804 (relating to  
18 penalties), 3814 (relating to drug and alcohol assessments) and  
19 3815 (relating to mandatory sentencing). If the court orders  
20 treatment, a report shall be forwarded to the department as to  
21 whether the defendant successfully completed the program. If a  
22 defendant fails to successfully complete a program of treatment  
23 as ordered by the court, the suspension shall remain in effect  
24 until the department is notified by the court that the defendant  
25 has successfully completed treatment and the defendant is  
26 otherwise eligible for restoration of his operating privilege.  
27 In order to implement the recordkeeping requirements of this  
28 section, the department and the court shall work together to  
29 exchange pertinent information about a defendant's case,  
30 including attendance and completion of treatment or failure to

1 complete treatment.

2 § 3817. Reporting requirements for offenses.

3 (a) Requirement.--The department shall make an annual report  
4 on the administration of this chapter. The department, the  
5 Administrative Office of Pennsylvania Courts and the  
6 Pennsylvania Sentencing Commission shall work together to  
7 exchange pertinent information necessary to complete this  
8 report.

9 (b) Contents.--The report shall include the following  
10 information by county:

11 (1) The number of offenders charged with a violation of  
12 section 3802 (relating to driving under influence of alcohol  
13 or controlled substance) sorted by the subsection under which  
14 the offender was charged.

15 (2) The number of offenders convicted of violating  
16 section 3802 sorted by the subsection under which the  
17 offender was convicted.

18 (3) The number of offenders admitted to an Accelerated  
19 Rehabilitative Disposition program for violating section 3802  
20 sorted by the subsection under which the offender was  
21 charged.

22 (4) The number of offenders completing an Accelerated  
23 Rehabilitative Disposition program for a violation of section  
24 3802 sorted by the subsection under which the offender was  
25 charged.

26 (5) The number of persons refusing a chemical test  
27 sorted by the number of prior offenses.

28 (6) The number of offenders subject to treatment under  
29 section 3807 (relating to Accelerated Rehabilitative  
30 Disposition) sorted by the subsection of section 3802 under



1 which the offender was charged.

2 (7) The number of offenders subject to section 3815  
3 (relating to mandatory sentencing) sorted by the subsection  
4 of section 3802 under which the offender was convicted.

5 (8) The number of offenders sent to treatment for  
6 alcohol and drug problems and addiction.

7 (9) The names of the treatment facilities providing  
8 treatment and the level of care and length of stay in  
9 treatment.

10 (10) The number of offenders successfully completing  
11 treatment.

12 (11) The number of first, second, third and subsequent  
13 offenders sorted by the subsection of section 3802 under  
14 which the offender was charged.

15 (12) The number of first, second, third and subsequent  
16 offenders sorted by the subsection of section 3802 under  
17 which the offender was convicted.

18 (13) The number of offenders who violated section 3802  
19 for whom costs for assessment and treatment were waived by  
20 the court.

21 (14) The number of offenders who violated section 3802  
22 for whom fines and costs were waived by the court.

23 (c) Recipients.--The annual report shall be submitted to the  
24 Judiciary Committee, Public Health and Welfare Committee and  
25 Transportation Committee of the Senate; the Health and Human  
26 Services Committee, Judiciary Committee and Transportation  
27 Committee of the House of Representatives; and the Department of  
28 Health Bureau of Drug and Alcohol Programs, who shall utilize  
29 the data for program planning purposes. The Bureau of Drug and  
30 Alcohol Programs shall consider increases in county drug and

1 alcohol program costs that result from the implementation of  
2 this chapter when proposing annual appropriations requests. The  
3 report shall be made available to the public.

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

6 § 6308. Investigation by police officers.

7 \* \* \*

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

19 \* \* \*

20 § 6506. Surcharge.

21 (a) Levy and imposition.--In addition to any fines, fees or  
22 penalties levied or imposed as provided by law, under this title  
23 or any other statute, a surcharge shall be levied for  
24 disposition in accordance with subsection (b) as follows:

25 \* \* \*

26 (7) Upon conviction of offenses under [section 3731]  
27 section 1543(b)(1.1) (relating to driving while operating  
28 privilege is suspended or revoked), 3802 (relating to driving  
29 under influence of alcohol or controlled substance) or  
30 3808(a)(2) (relating to illegally operating a motor vehicle

1 not equipped with ignition interlock), or upon admission to  
2 programs for Accelerated Rehabilitative Disposition for  
3 offenses enumerated in section [3731,] 1543(b)(1.1), 3802 or  
4 3808(a)(2), a surcharge, respectively, of:

- 5 (i) \$50 for the first offense.
- 6 (ii) \$100 for the second offense.
- 7 (iii) \$200 for the third offense.
- 8 (iv) \$300 for the fourth and subsequent offenses.

9 The provisions of this subsection shall not apply to any  
10 violation committed by the operator of a motorcycle, motor-  
11 driven cycle, pedalcycle, motorized pedalcycle or recreational  
12 vehicle not intended for highway use.

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

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

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

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

21 Section 19. Notwithstanding any other provision of law to  
22 the contrary and in order to facilitate the prompt  
23 implementation of this act, initial contracts entered into by  
24 the Department of Transportation necessary to carry out any of  
25 the provisions of this act, including the procurement of any  
26 necessary computer hardware, software, licenses or related  
27 services shall not be subject to the provisions of 62 Pa.C.S.  
28 The department shall solicit multiple bids and shall provide  
29 written justification for the selection of successful vendors.  
30 Contracts made pursuant to the provisions of this section shall

1 not exceed two years.

2 Section 20. The Department of Transportation has the  
3 following duties:

4 (1) In order to implement the amendment or addition of  
5 75 Pa.C.S. §§ 1553(b)(1), (c), (d)(6), (8) and (9), (d.1),  
6 (d.2), (d.3), (e) and (f) and 3805, the following shall  
7 apply:

8 (i) The department shall adopt and use guidelines,  
9 which shall be published in the Pennsylvania Bulletin.  
10 The guidelines shall not be subject to review under  
11 section 205 of the act of July 31, 1968 (P.L.769,  
12 No.240), referred to as the Commonwealth Documents Law,  
13 and the act of June 25, 1982 (P.L.633, No.181), known as  
14 the Regulatory Review Act.

15 (ii) By September 30, 2004, the department shall, in  
16 accordance with law, promulgate regulations to replace  
17 the guidelines under subparagraph (i).

18 (iii) The guidelines under subparagraph (i) shall:

19 (A) take effect February 1, 2004, or  
20 immediately, whichever is later; and

21 (B) expire on the earlier of:

22 (I) the effective date of regulations under  
23 subparagraph (ii); or

24 (II) September 30, 2005.

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

27 (3) Enlist the cooperation of all individuals and  
28 entities who are authorized to physically seize a person's  
29 driver's license and report back to the General Assembly  
30 about what policies are in place to ensure that the

1 department is notified and that the term of suspension begins  
2 upon seizure of the person's driver's license. The report  
3 shall include information about the number and nature of  
4 complaints regarding this system and efforts undertaken by  
5 the various agencies to improve this process. The report  
6 shall be issued within 180 days of the effective date of this  
7 section.

8 Section 21. The following shall apply:

9 (1) The repeal of 18 Pa.C.S. § 7513 shall not affect  
10 offenses committed prior to February 1, 2004.

11 (2) The repeal of 18 Pa.C.S. § 7514 and 75 Pa.C.S. §  
12 3731 shall not affect offenses committed prior to February 1,  
13 2004, or civil and administrative penalties imposed as a  
14 result of those offenses.

15 (3) An individual sentenced under 18 Pa.C.S. § 7514 or  
16 75 Pa.C.S. § 3731 shall be subject to administrative and  
17 civil sanctions in effect on January 31, 2004.

18 (4) An individual sentenced under 75 Pa.C.S. Ch. 38  
19 shall be subject to administrative and civil sanctions under  
20 this act.

21 (5) The following apply to offenses committed before  
22 February 1, 2004:

23 (i) Except as set forth in subparagraph (ii) or  
24 (iii), this act shall not affect an offense committed  
25 before February 1, 2004, or any criminal, civil and  
26 administrative penalty assessed as a result of that  
27 offense.

28 (ii) Subparagraph (i) does not apply if a provision  
29 added or amended by this act specifies application to an  
30 offense committed before February 1, 2004, or to any

1 criminal, civil or administrative penalty assessed as a  
2 result of that offense.

3 (iii) Subparagraph (i) does not apply to the  
4 following provisions:

5 (A) The amendment of 42 Pa.C.S. § 7003(5) in  
6 section 3 of this act.

7 (B) The amendment of 75 Pa.C.S. § 1516(c) and  
8 (d).

9 (C) The amendment of 75 Pa.C.S. § 1534(b).

10 (D) The amendment of 75 Pa.C.S. § 1547(d) in  
11 section 9.1 of this act.

12 (E) The amendment of 75 Pa.C.S. § 3731(a)(4)(i)  
13 and (a.1)(1)(i) in section 13 of this act.

14 Section 22. This act shall take effect as follows:

15 (1) The following provisions shall take effect  
16 immediately:

17 (i) Section 19 of this act.

18 (ii) Section 20 of this act.

19 (iii) This section.

20 (2) The following provisions shall take effect September  
21 30, 2003, or immediately, whichever is later:

22 (i) The amendment of 42 Pa.C.S. §§ 7002(b) and  
23 7003(5) in section 3 of this act.

24 (ii) The amendment of 75 Pa.C.S. § 1547(d) in  
25 section 9 of this act.

26 (iii) The amendment of 75 Pa.C.S. § 3731(a)(4)(i)  
27 and (a.1)(1)(i) in section 13 of this act.

28 (3) The remainder of this act shall take effect February  
29 1, 2004.