

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1068 Session of  
2004

INTRODUCED BY ORIE, PIPPY, GORDNER, DENT, STACK AND C. WILLIAMS,  
MARCH 24, 2004

REFERRED TO TRANSPORTATION, MARCH 24, 2004

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, providing for administrative license forfeiture  
3 under certain circumstances.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 75 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 1540.1. Administrative license forfeiture.

9 (a) Administrative program established.--Notwithstanding any  
10 other provision of this title, the department shall establish a  
11 program to capture an individual's driver's license and shall  
12 suspend operating privileges in accordance with the provisions  
13 of this section upon any of the following:

14 (1) Refusal to submit to chemical testing under section  
15 1547 (relating to chemical testing to determine amount of  
16 alcohol or controlled substance).

17 (2) Registering an alcohol concentration in the  
18 individual's blood or breath of at least .08% at the time a

1 chemical test is performed on a sample of the individual's  
2 blood or breath under section 1547.

3 (3) Driving while license is suspended in violation of  
4 section 1543(b)(1) (relating to driving while operating  
5 privilege is suspended or revoked) if there is also a  
6 violation of section 3802 (relating to driving under  
7 influence of alcohol or controlled substance).

8 (4) A second or subsequent violation of section 3802.

9 (b) Service of notice of suspension.--The department may  
10 authorize the Pennsylvania State Police and municipal law  
11 enforcement agencies to serve notice of suspension under this  
12 section and to seize the driver's license of the individual. The  
13 notice of suspension shall be on a form provided by the  
14 department and shall contain the following, at a minimum:

15 (1) Whether the law enforcement officer had reasonable  
16 cause to believe the individual operated a motor vehicle in  
17 violation of section 1543(b)(1), if applicable.

18 (2) Whether the individual was placed under arrest.

19 (3) Whether the individual refused to submit to or did  
20 not complete the test or tests after being requested to do so  
21 by a law enforcement officer.

22 (4) Whether, except for individuals who are incapable of  
23 refusing, the individual had been told that his or her  
24 operating privileges would be suspended or revoked if he or  
25 she refused to submit to, or did not complete, the test or  
26 tests.

27 (5) Whether the individual's driver's license has been  
28 seized.

29 (c) Substitute notice when service fails to occur.--If the  
30 notice of suspension has not been served as provided in

1 subsection (b), the department shall, within five days of  
2 receipt of notice from a law enforcement agency of conduct under  
3 subsection (a), send notice in writing to the individual  
4 involved of the action taken under this section, and the  
5 procedures for obtaining an administrative hearing should the  
6 individual desire to challenge the action of the department.

7 (d) Explanation of rights.--The notice issued by a law  
8 enforcement officer or the department under subsections (b) and  
9 (c) shall:

10 (1) Notify the individual that the individual may submit  
11 a written request for a hearing.

12 (2) Notify the individual that the request for a hearing  
13 must be received by the department within 15 days after the  
14 date of the notice or the order of suspension will become  
15 final.

16 (3) Be accompanied by printed forms that are ready to  
17 mail to the department and that may be filled out and signed  
18 by the individual to indicate the individual's desire for a  
19 hearing.

20 (4) Inform the individual that unless the individual has  
21 surrendered any driver's license or permit issued by the  
22 Commonwealth the individual's hearing request will not be  
23 accepted, unless the individual certifies under penalty of  
24 perjury that the license or permit is lost or destroyed.

25 (e) Scheduling of hearing.--On the receipt of a request for  
26 a hearing, the department shall set the hearing within 30 days.

27 (f) Period of suspension.--

28 (1) Suspensions under this section shall take effect  
29 immediately.

30 (2) The period of suspension for an individual whose

1 blood alcohol content is .08% to .099% for a first offense  
2 shall be 30 days and shall run concurrently with any other  
3 suspension or revocation of operating privileges under this  
4 title.

5 (3) In all other cases, the department shall prescribe  
6 the period of suspension which shall not exceed 90 days  
7 beyond any other suspension imposed under any other provision  
8 of this title.

9 Section 2. This act shall take effect in 60 days.