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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 804 Session of  
2005

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INTRODUCED BY MAITLAND, SAYLOR, HESS, CALTAGIRONE, CAPPELLI,  
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PAYNE, PHILLIPS, READSHAW, SAINATO, SCAVELLO, SOLOBAY, STERN,  
E. Z. TAYLOR, WALKO, GILLESPIE AND BOYD, MARCH 14, 2005

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
JULY 1, 2006

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AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, further providing for an electronic titling  
3 program, FOR SUSPENSION OF REGISTRATION UPON SIXTH UNPAID <—  
4 PARKING VIOLATION IN CITIES OF THE FIRST CLASS, for  
5 unattended children in motor vehicles and, for fleeing or <—  
6 attempting to elude police officer ~~prohibiting operators from~~ <—  
7 ~~using handheld mobile telephones;~~ and further providing for <—  
8 exemption from additional requirements for highway occupancy  
9 permits for agricultural purposes; AND PROVIDING FOR LEVY AND <—  
10 IMPOSITION OF SURCHARGE IN CITIES OF THE FIRST CLASS.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 1151 of Title 75 of the Pennsylvania  
14 Consolidated Statutes is amended to read:

15 § 1151. Electronic media system for vehicle titles.

16 (a) Initial responsibilities of department.--The department  
17 is authorized to form a task force for the purpose of developing  
18 a system which will permit the voluntary recording of vehicle  
19 title information for new, transferred and corrected

1 certificates of title, including the perfection and release of  
2 security interests, through electronic media in a cost-effective  
3 manner in lieu of the submission and maintenance of paper  
4 documents otherwise required by this chapter. The members of the  
5 task force shall be appointed by the secretary and shall include  
6 representatives from the department, the commercial banking  
7 industry, sales finance companies, credit unions, savings  
8 institutions and the vehicle dealership industry.

9 (b) Task force responsibilities.--The task force shall  
10 research methods whereby the department, lending institutions  
11 and sales finance companies may exchange and maintain  
12 information concerning the perfection and release of vehicle  
13 security interests without submitting or receiving the paper  
14 title document. Further, the task force shall develop methods  
15 whereby lending institutions and sales finance companies may  
16 submit, through a variety of electronic media, updated  
17 information pertaining to the title record, including the  
18 addition, assignment or release of vehicle security interests.

19 (c) Expiration.--This section expires January 1, 2007.

20 Section 2. Title 75 is amended by adding a section to read:

21 § 1151.1. Program.

22 (a) General rule.--The department shall administer an  
23 electronic titling program that permits the recording of vehicle  
24 title information for new, transferred and corrected  
25 certificates of title through electronic media in a cost-  
26 effective manner in lieu of the submission and maintenance of  
27 paper documents otherwise required by this chapter.

28 (b) Description.--The electronic titling program shall  
29 include, but not be limited to, methods by which vehicle title  
30 information, including the perfection, release and assignment of

1 vehicle security interests may be submitted through electronic  
2 media.

3 (c) Mandatory participation.--Except for individuals and  
4 lienholders who are not normally engaged in the business or  
5 practice of financing vehicles, lienholders shall participate in  
6 the electronic titling program.

7 Section 3. Sections 1152 ~~and 1154~~, 1154, 1379(B.1), 3327 AND ←  
8 3701.1(B) of Title 75 are amended to read:

9 § 1152. Development of pilot program.

10 (a) Pilot program development.--The task force appointed  
11 under section 1151 (relating to electronic media system for  
12 vehicle titles) shall develop a pilot program to implement  
13 voluntary electronic transactions in lieu of the paper documents  
14 required by this chapter. The department may limit the number of  
15 counties in which the pilot program will be in effect and may  
16 also limit the number of lending institutions and sales finance  
17 companies participating in the program, but shall encourage  
18 lending institutions and sales finance companies of various  
19 sizes to participate.

20 (b) Expiration.--This section expires January 1, 2007.

21 § 1154. Expansion of pilot program.

22 (a) Pilot program expansion.--If, after 12 months of  
23 operation, the secretary certifies in the Pennsylvania Bulletin  
24 that the pilot program created under section 1152 (relating to  
25 development of pilot program) has been successful, the  
26 department shall promulgate regulations governing voluntary  
27 electronic media transactions in lieu of submission and  
28 maintenance of paper documents otherwise required by this  
29 chapter. Until the regulations are adopted, the department may  
30 maintain and expand the pilot program provided for in section

1 1152.

2 ~~(b) Expiration.--This section expires January 1, 2007.~~

3 ~~Section 4. Title 75 of the Pennsylvania Consolidated~~ <—

4 ~~Statutes is amended by adding a section to read:~~

5 ~~§ 3316. Prohibiting use of handheld mobile telephones.~~

6 ~~(a) General rule. Except as provided in subsection (b), no~~  
7 ~~driver shall operate any moving vehicle on a highway of this~~  
8 ~~Commonwealth, which shall include Federal, State and municipal~~  
9 ~~highways, while using a handheld mobile telephone. This~~  
10 ~~subsection shall not prohibit the use of a hands free mobile~~  
11 ~~telephone while operating a motor vehicle.~~

12 ~~(b) Exception. This section shall not apply to law~~  
13 ~~enforcement officers and operators of emergency vehicles when on~~  
14 ~~duty and acting in their official capacities.~~

15 ~~(c) Defense. It shall be a defense to a prosecution brought~~  
16 ~~for a violation of this section that the driver had reason to~~  
17 ~~fear for the driver's safety, was reporting a traffic accident~~  
18 ~~or was making a "911" emergency call.~~

19 ~~(d) Penalty. A person who violates this section commits a~~  
20 ~~summary offense and shall, upon conviction, be sentenced to pay~~  
21 ~~a fine of \$250.~~

22 ~~(e) Secondary offense. No person shall be convicted of a~~  
23 ~~violation of subsection (a) unless the person is also convicted~~  
24 ~~of another violation of this title which occurred at the same~~  
25 ~~time.~~

26 ~~(f) Definitions. As used in this section, the following~~  
27 ~~words and phrases shall have the meanings given to them in this~~  
28 ~~subsection:~~

29 ~~"Engage in a call." Talking into or listening on a hand held~~  
30 ~~mobile telephone. This term shall not include holding a mobile~~

1 ~~telephone to activate, deactivate or initiate a function of such~~  
2 ~~telephone.~~

3 ~~"Handheld mobile telephone." A mobile telephone other than a~~  
4 ~~hands free mobile telephone with which a user engages in a call~~  
5 ~~using at least one hand.~~

6 ~~"Hands free mobile telephone." A mobile telephone that has~~  
7 ~~an internal feature or function, or that is equipped with an~~  
8 ~~attachment or addition, whether or not permanently part of such~~  
9 ~~mobile telephone, by which a user engages in a call without the~~  
10 ~~use of either hand, whether or not the use of either hand is~~  
11 ~~necessary to activate, deactivate or initiate a function of such~~  
12 ~~telephone.~~

13 ~~"Immediate proximity." The distance permitting the operator~~  
14 ~~of a mobile telephone to hear telecommunications transmitted~~  
15 ~~over the mobile telephone, but without requiring physical~~  
16 ~~contact of the mobile telephone with the operator's car.~~

17 ~~"Mobile telephone." The device used by subscribers and other~~  
18 ~~users of wireless telephone service to access such service.~~

19 ~~"Using." Holding a mobile telephone to, or in the immediate~~  
20 ~~proximity of, the user's car.~~

21 ~~"Wireless telephone service." The two way real time voice~~  
22 ~~telecommunications service that is interconnected to a public~~  
23 ~~switched telephone network and is provided by a commercial~~  
24 ~~mobile radio service, as defined by 47 CFR § 20.3.~~

25 Section 5. Section 3701.1(b) of Title 75 is amended to read:

26 § 1379. SUSPENSION OF REGISTRATION UPON SIXTH UNPAID PARKING  
27 VIOLATION IN CITIES OF THE FIRST CLASS.

28 \* \* \*

29 (B.1) NOTICE BY THE PARKING AUTHORITY.--PRIOR TO NOTIFYING  
30 THE DEPARTMENT UNDER SUBSECTION (B), THE PARKING AUTHORITY SHALL

1 PROVIDE THE OWNER OR REGISTRANT WRITTEN NOTICE BY [CERTIFIED  
2 MAIL, RETURN RECEIPT REQUESTED,] FIRST CLASS MAIL OF ITS INTENT  
3 TO SEEK SUSPENSION OF THE VEHICLE REGISTRATION PURSUANT TO THIS  
4 SECTION.

5 \* \* \*

6 § 3327. DUTY OF DRIVER IN EMERGENCY RESPONSE AREAS.

7 (A) GENERAL RULE.--WHEN APPROACHING OR PASSING AN EMERGENCY  
8 RESPONSE AREA, [NO PERSON SHALL DRIVE A VEHICLE:

9 (1) AT A SPEED GREATER THAN IS REASONABLE AND PRUDENT  
10 UNDER THE CONDITIONS, HAVING REGARD TO THE ACTUAL AND  
11 POTENTIAL HAZARDS THEN EXISTING; OR

12 (2) IN DISOBEDIENCE OF INSTRUCTIONS OR INDICATIONS  
13 RELATING TO TRAFFIC FLOW WHICH ARE MADE, EITHER VERBALLY OR  
14 THROUGH THE USE OF SIGNS, FLARES, SIGNALS, LIGHTS OR OTHER  
15 TRAFFIC CONTROL DEVICES, BY LAW ENFORCEMENT PERSONNEL OR  
16 EMERGENCY SERVICE RESPONDERS.] A PERSON UNLESS OTHERWISE  
17 DIRECTED BY AN EMERGENCY SERVICE RESPONDER SHALL:

18 (1) PASS IN A LANE NOT ADJACENT TO THAT OF THE EMERGENCY  
19 RESPONSE AREA, IF POSSIBLE; OR

20 (2) IF PASSING IN A NONADJACENT LANE IS IMPOSSIBLE,  
21 ILLEGAL OR UNSAFE, PASS THE EMERGENCY RESPONSE AREA AT A  
22 CAREFUL AND PRUDENT REDUCED SPEED REASONABLE FOR SAFELY  
23 PASSING THE EMERGENCY RESPONSE AREA.

24 (B) PENALTY.--ANY PERSON VIOLATING SUBSECTION (A) COMMITS A  
25 SUMMARY OFFENSE AND SHALL, UPON CONVICTION, PAY A FINE OF [\$85]  
26 NOT MORE THAN \$250.

27 (B.1) SUSPENSION OF OPERATING PRIVILEGE.--THE DEPARTMENT  
28 SHALL SUSPEND THE OPERATING PRIVILEGE OF ANY PERSON FOR 90 DAYS  
29 UPON RECEIVING A CERTIFIED RECORD OF THE DRIVER'S CONVICTION,  
30 ADJUDICATION OF DELINQUENCY OR ADMISSION INTO A PREADJUDICATION

1 PROGRAM FOR A VIOLATION OF SUBSECTION (A), IF THE CERTIFIED  
2 CONVICTION INDICATES THE VIOLATION RESULTED IN SERIOUS INJURY TO  
3 ANOTHER PERSON. THE LICENSE SHALL BE SURRENDERED IN ACCORDANCE  
4 WITH SECTION 1540 (RELATING TO SURRENDER OF LICENSE).

5 (C) MARKING.--AN EMERGENCY RESPONSE AREA SHALL BE CLEARLY  
6 MARKED WITH ROAD FLARES, CAUTION SIGNS OR ANY OTHER TRAFFIC-  
7 CONTROL DEVICE WHICH LAW ENFORCEMENT OFFICIALS MAY HAVE AT THEIR  
8 IMMEDIATE DISPOSAL[.] OR VISUAL SIGNALS ON VEHICLES MEETING THE  
9 REQUIREMENTS OF SUBCHAPTER D OF CHAPTER 45 (RELATING TO  
10 EQUIPMENT OF AUTHORIZED AND EMERGENCY VEHICLES.

11 (D) REPORTS BY EMERGENCY SERVICE RESPONDERS.--

12 (1) AN EMERGENCY SERVICE RESPONDER OBSERVING A VIOLATION  
13 OF SUBSECTION (A) MAY PREPARE A WRITTEN, SIGNED REPORT WHICH  
14 INDICATES THAT A VIOLATION HAS OCCURRED. TO THE EXTENT  
15 POSSIBLE, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

16 (I) INFORMATION PERTAINING TO THE IDENTITY OF THE  
17 ALLEGED VIOLATOR.

18 (II) THE LICENSE NUMBER AND COLOR OF THE VEHICLE  
19 INVOLVED IN THE VIOLATION.

20 (III) THE TIME AND APPROXIMATE LOCATION AT WHICH THE  
21 VIOLATION OCCURRED.

22 (IV) IDENTIFICATION OF THE VEHICLE AS AN AUTOMOBILE,  
23 STATION WAGON, MOTOR TRUCK, MOTOR BUS, MOTORCYCLE OR  
24 OTHER TYPE OF VEHICLE.

25 (2) WITHIN 48 HOURS AFTER THE VIOLATION OCCURS, THE  
26 EMERGENCY SERVICE RESPONDER SHALL DELIVER A COPY OF THE  
27 REPORT TO A POLICE OFFICER HAVING AUTHORITY TO EXERCISE  
28 POLICE POWER IN THE AREA WHERE THE VIOLATION OCCURRED. IF THE  
29 POLICE OFFICER BELIEVES THAT THE REPORT ESTABLISHED A  
30 SUFFICIENT BASIS FOR THE ISSUANCE OF A CITATION, THE OFFICER

1 SHALL FILE A CITATION AND A COPY OF THE REPORT WITH THE  
2 ISSUING AUTHORITY. IF THE ISSUING AUTHORITY DETERMINES THAT  
3 THE REPORT AND CITATION ESTABLISH A SUFFICIENT BASIS FOR THE  
4 ISSUANCE OF A SUMMONS, A SUMMONS SHALL BE ISSUED IN  
5 ACCORDANCE WITH GENERAL RULES GOVERNING THE INSTITUTION OF  
6 PROCEEDINGS IN SUMMARY TRAFFIC OFFENSE CASES. THE ISSUING  
7 AUTHORITY SHALL SEND THE DEFENDANT A COPY OF THE CITATION,  
8 TOGETHER WITH A STATEMENT THAT IT WAS FILED BY THE POLICE  
9 OFFICER NAMED IN THE CITATION ON THE BASIS OF INFORMATION  
10 RECEIVED.

11 (3) A PERSON MAY INSTITUTE A PROCEEDING PURSUANT TO THIS  
12 SUBSECTION OR IN ACCORDANCE WITH ANY MEANS AUTHORIZED BY THE  
13 PENNSYLVANIA RULES OF CRIMINAL PROCEDURE.

14 (E) FINES TO BE DOUBLED.--IN ADDITION TO ANY PENALTY AS  
15 PROVIDED IN SUBSECTION (B), THE FINE FOR ANY OF THE FOLLOWING  
16 VIOLATIONS WHEN COMMITTED IN AN EMERGENCY RESPONSE AREA MANNED  
17 BY EMERGENCY SERVICE RESPONDERS SHALL BE DOUBLE THE USUAL  
18 AMOUNT:

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

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

23 SECTION 3114 (RELATING TO FLASHING SIGNALS).

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

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

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

30 SECTION 3305 (RELATING TO LIMITATIONS ON OVERTAKING ON

1 THE LEFT).

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

4 SECTION 3307 (RELATING TO NO-PASSING ZONES).

5 SECTION 3310 (RELATING TO FOLLOWING TOO CLOSELY).

6 SECTION 3312 (RELATING TO LIMITED ACCESS HIGHWAY  
7 ENTRANCES AND EXITS).

8 SECTION 3323 (RELATING TO STOP SIGNS AND YIELD SIGNS).

9 SECTION 3325 (RELATING TO DUTY OF DRIVER ON APPROACH OF  
10 EMERGENCY VEHICLE).

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

12 SECTION 3707 (RELATING TO DRIVING OR STOPPING CLOSE TO  
13 FIRE APPARATUS).

14 SECTION 3710 (RELATING TO STOPPING AT INTERSECTION OR  
15 CROSSING TO PREVENT OBSTRUCTION).

16 SECTION 3714 (RELATING TO CARELESS DRIVING).

17 SECTION 3736 (RELATING TO RECKLESS DRIVING).

18 SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE OF  
19 ALCOHOL OR CONTROLLED SUBSTANCE).

20 (E.1) PUBLIC AWARENESS.--THE DEPARTMENT SHALL EDUCATE THE  
21 PUBLIC OF THE PROVISIONS OF THIS SECTION AS IT DEEMS  
22 APPROPRIATE.

23 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
24 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
25 SUBSECTION:

26 "EMERGENCY RESPONSE AREA." THE AREA IN WHICH EMERGENCY  
27 SERVICE RESPONDERS RENDER EMERGENCY ASSISTANCE TO INDIVIDUALS ON  
28 OR NEAR A ROADWAY[.] OR A POLICE OFFICER IS CONDUCTING A TRAFFIC  
29 STOP OR SYSTEMATIC CHECK OF VEHICLES AS LONG AS THE EMERGENCY  
30 VEHICLE IS MAKING USE OF VISUAL SIGNALS MEETING THE REQUIREMENTS

1 OF SUBCHAPTER D OF CHAPTER 45.

2 "EMERGENCY SERVICE RESPONDER." AN INDIVIDUAL ACTING IN AN  
3 OFFICIAL CAPACITY AS POLICE OFFICER, SHERIFF, DEPUTY SHERIFF,  
4 CORONER, DEPUTY CORONER, FIREFIGHTER, FIRE POLICE, FIRE MARSHAL,  
5 MEDICAL EXAMINER, DEPUTY MEDICAL EXAMINER, RESCUE PERSONNEL,  
6 AMBULANCE PERSONNEL, TOWING AND RECOVERY PERSONNEL, HIGHWAY  
7 MAINTENANCE AND CONSTRUCTION PERSONNEL, HAZARDOUS MATERIAL  
8 RESPONSE TEAM MEMBER OR EMERGENCY MEDICAL SERVICE PERSONNEL.

9 "SERIOUS INJURY." A PERSONAL INJURY RESULTING IN DEATH,  
10 SERIOUS IMPAIRMENT OF BODY FUNCTION OR PERMANENT SERIOUS  
11 DISFIGUREMENT.

12 § 3701.1. Leaving an unattended child in a motor vehicle.

13 \* \* \*

14 (b) Penalty.--A person who violates this section commits a  
15 summary offense. It is a separate offense for each child left  
16 unattended.

17 Section ~~6~~ 4. Section 3733(a) of Title 75 is amended and the <—  
18 section is amended by adding a subsection to read:

19 § 3733. Fleeing or attempting to elude police officer.

20 (a) Offense defined.--Any driver of a motor vehicle who  
21 willfully fails or refuses to bring his vehicle to a stop, or  
22 who otherwise flees or attempts to elude a pursuing police  
23 officer, when given visual or audible signal to bring the  
24 vehicle to a stop, commits [a misdemeanor of the second degree.  
25 Any driver upon conviction shall pay an additional fine of \$500.  
26 This fine shall be in addition to and not in lieu of all other  
27 fines, court expenses, jail sentences or penalties] an offense  
28 as graded in subsection (a.2).

29 \* \* \*

30 (a.2) Grading.--

1           (1) Except as provided in paragraph (2), an offense  
2           under subsection (a) constitutes a misdemeanor of the second  
3           degree. Any driver upon conviction shall pay an additional  
4           fine of \$500. This fine shall be in addition to and not in  
5           lieu of all other fines, court expenses, jail sentences or  
6           penalties.

7           (2) An offense under subsection (a) constitutes a felony  
8           of the third degree if the driver, ~~simultaneously~~ WHILE           <—  
9           FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER DOES ANY OF  
10           THE FOLLOWING:

11           (i) commits a violation of section 3802 (relating to  
12           driving under influence of alcohol or controlled  
13           substance);

14           (ii) crosses a State line; or

15           (iii) endangers a law enforcement officer or member  
16           of the general public due to the driver engaging in a  
17           high-speed chase.

18           \* \* \*

19           Section 7 5. Section 6103.1 of Title 75 is amended to read:           <—

20           § 6103.1. Exemption from additional requirements for highway  
21           occupancy permits for agricultural purposes.

22           The department shall waive all additional requirements for a  
23           highway occupancy permit in a fifth through eighth class county  
24           when all of the following conditions exist:

25           (1) The State highway has an overall width of at least  
26           33 feet.

27           (2) Not more than [five] 25 combination vehicles per  
28           week will access the highway.

29           (3) The lack of sufficient land is not the result of a  
30           subdivision within ten years by the applicant.

1 (4) The waiver is necessary for the expansion or  
2 creation of an agricultural operation which lacks other  
3 highway access points that could be permitted without waiver.

4 (5) The applicant does not hold fee simple title to land  
5 necessary to provide access without this waiver.

6 (6) The State highway has an average daily travel of  
7 less than 6,500 vehicles per day.

8 (7) The highway access point has a sight distance of at  
9 least 500 feet.

10 SECTION 6. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ: <—

11 § 6507. LEVY AND IMPOSITION OF SURCHARGE IN CITIES OF THE FIRST  
12 CLASS.

13 IN ADDITION TO ANY FINES, FEES OR PENALTIES LEVIED OR IMPOSED  
14 AS PROVIDED BY LAW, UNDER ANY STATUTE OR LOCAL ORDINANCE, AND  
15 UPON FINDING OR ADMISSION OF LIABILITY, A SURCHARGE SHALL BE  
16 LEVIED ON ANY PARKING VIOLATION NOTICE OR CITATION ISSUED IN A  
17 CITY OF THE FIRST CLASS PURSUANT TO THE ENFORCEMENT AND  
18 ADMINISTRATION OF A SYSTEM OF ON-STREET PARKING IN THE AMOUNT OF  
19 \$1 FOR DISPOSITION TO AN ACCOUNT CREATED PURSUANT TO 53 PA.C.S §  
20 5708(A) (RELATING TO FUND) FOR PURPOSES OF FUNDING COSTS OF A  
21 PARKING AUTHORITY OF A CITY OF THE FIRST CLASS ASSOCIATED WITH  
22 53 PA.C.S. CH. 57 (RELATING TO TAXICABS AND LIMOUSINES IN FIRST  
23 CLASS CITIES).

24 Section ~~8-6~~ 7. This act shall take effect as follows: <—

25 (1) The addition of 75 Pa.C.S. § 1151.1(c) shall take  
26 effect in two years.

27 (2) THE ADDITION OR AMENDMENT OF 75 PA.C.S. §§ 1379 AND <—  
28 6507 SHALL TAKE EFFECT IMMEDIATELY.

29 (3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

30 ~~(2)~~ (4) The remainder of this act shall take effect in <—

1 60 days.