

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2019 Session of
2007

INTRODUCED BY CLYMER, BEAR, CREIGHTON, FLECK, GILLESPIE,
GRUCELA, HARHART, HERSHEY, KAUFFMAN, M. KELLER, W. KELLER,
MACKERETH, McILHATTAN, MILLARD, MILNE, PYLE, SIPTROTH,
K. SMITH, SONNEY, SWANGER AND YOUNGBLOOD, NOVEMBER 14, 2007

REFERRED TO COMMITTEE ON TRANSPORTATION, NOVEMBER 14, 2007

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for definitions, for penalties
3 for driving after imbibing alcohol or utilizing drugs, for
4 ignition interlock, for accelerated rehabilitative
5 disposition and for illegally operating a motor vehicle not
6 equipped with ignition interlock; and making an editorial
7 change.

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

10 Section 1. Sections 3801 and 3804(a)(2) and (3), (b) and (c)
11 of Title 75 of the Pennsylvania Consolidated Statutes are
12 amended to read:

13 § 3801. Definitions.

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

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

18 "Ignition interlock system." A system approved by the
19 department which prevents a vehicle from being started [or

1 operated] unless the operator first provides a breath sample
2 indicating that the operator has an alcohol level less than
3 0.025%.

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

5 § 3804. Penalties.

6 (a) General impairment.--Except as set forth in subsection
7 (b) or (c), an individual who violates section 3802(a) (relating
8 to driving under influence of alcohol or controlled substance)
9 shall be sentenced as follows:

10 * * *

11 (2) For a second offense, to:

12 (i) undergo imprisonment for not less than five
13 days;

14 (ii) pay a fine of not less than \$300 nor more than
15 \$2,500;

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

18 (iv) comply with all drug and alcohol treatment
19 requirements imposed under sections 3814 and 3815[.]; and

20 (v) participate in and comply with the ignition
21 interlock program under section 3805 (relating to
22 ignition interlock).

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

24 (i) undergo imprisonment of not less than ten days;

25 (ii) pay a fine of not less than \$500 nor more than
26 \$5,000; [and]

27 (iii) comply with all drug and alcohol treatment
28 requirements imposed under sections 3814 and 3815[.]; and

29 (iv) participate in and comply with the ignition
30 interlock program under section 3805.

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

(1) For a first offense, to:

(i) undergo imprisonment of not less than 48 consecutive hours;

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

(iii) attend an alcohol highway safety school approved by the department; [and]

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(v) participate in and comply with the ignition interlock program under section 3805.

(2) For a second offense, to:

(i) undergo imprisonment of not less than 30 days;

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

(iii) attend an alcohol highway safety school approved by the department; [and]

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(v) participate in and comply with the ignition interlock program under section 3805.

(3) For a third offense, to:

(i) undergo imprisonment of not less than 90 days;

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

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(iv) participate in and comply with the ignition interlock program under section 3805.

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

(i) undergo imprisonment of not less than one year;

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

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(iv) participate in and comply with the ignition interlock program under section 3805.

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

(1) For a first offense, to:

(i) undergo imprisonment of not less than 72 consecutive hours;

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

(iii) attend an alcohol highway safety school approved by the department; [and]

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815[.]; and

(v) participate in and comply with the ignition interlock program under section 3805.

(2) For a second offense, to:

1 (i) undergo imprisonment of not less than 90 days;
2 (ii) pay a fine of not less than \$1,500;
3 (iii) attend an alcohol highway safety school
4 approved by the department; [and]
5 (iv) comply with all drug and alcohol treatment
6 requirements imposed under sections 3814 and 3815[.]; and
7 (v) participate in and comply with the ignition
8 interlock program under section 3805.

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

10 (i) undergo imprisonment of not less than one year;
11 (ii) pay a fine of not less than \$2,500; [and]
12 (iii) comply with all drug and alcohol treatment
13 requirements imposed under sections 3814 and 3815[.]; and
14 (iv) participate in and comply with the ignition
15 interlock program under section 3805.

16 * * *

17 Section 2. Section 3805(a), (b) and (c) of Title 75 are
18 amended and the section is amended by adding a subsection to
19 read:

20 § 3805. Ignition interlock.

21 (a) General rule.--If a person violates section 3802
22 (relating to driving under influence of alcohol or controlled
23 substance) [and, within the past ten years, has a prior offense
24 as defined in section 3806(a) (relating to prior offenses)] or
25 has had their operating privileges suspended pursuant to section
26 1547(b.1) (relating to chemical testing to determine amount of
27 alcohol or controlled substance) or 3808(c) (relating to
28 illegally operating a motor vehicle not equipped with ignition
29 interlock) and the person seeks a restoration of operating
30 privileges, the department shall require as a condition of

1 issuing a restricted license pursuant to this section that [the
2 following occur:

3 (1) Each] each motor vehicle owned by the person or
4 registered to the person has been equipped with an ignition
5 interlock system and remains so for the duration of the
6 restricted license period.

7 [(2) If there are no motor vehicles owned by the person
8 or registered to the person that the person so certify to the
9 department. A person so certifying shall be deemed to have
10 satisfied the requirement that all motor vehicles owned by
11 the person or registered to the person be equipped with an
12 ignition interlock system as required by this subsection.]

13 (b) Application for a restricted license.--A person subject
14 to this section shall apply to the department for an ignition
15 interlock restricted license under section 1951 (relating to
16 driver's license and learner's permit), which shall be clearly
17 marked to restrict the person to only driving, operating or
18 being in actual physical control of the movement of motor
19 vehicles equipped with an ignition interlock system[.] and shall
20 pay an application fee of \$50 to the department. The department
21 shall:

22 (1) Upon issuance of an ignition interlock restricted
23 license to any person, [the department shall] notify the
24 person that until the person obtains an unrestricted license
25 the person may not own, register, drive, operate or be in
26 actual physical control of the movement of any motor vehicle
27 which is not equipped with an ignition interlock system.

28 (2) Require that a person subject to the requirements of
29 subsection (j) maintain an ignition interlock restricted
30 license for the following periods:

1 (i) An individual sentenced under section 3804(b)(1)
2 (relating to penalties) shall be required to maintain a
3 restricted license for six months.

4 (ii) An individual sentenced under section
5 3804(a)(2) or (b)(2) shall be required to maintain a
6 restricted license for 12 months.

7 (iii) An individual sentenced under section
8 3804(c)(1) shall be required to maintain a restricted
9 license for 18 months.

10 (iv) An individual sentenced under section
11 3804(a)(3), (b)(3) or (4) or (c)(2) shall be required to
12 maintain a restricted license for 24 months.

13 (v) An individual sentenced under section 3804(c)(3)
14 shall be required to maintain a restricted license for 36
15 months.

16 (3) Take into consideration the requirements under 23
17 U.S.C. §§ 164 (relating to minimum penalties for repeat
18 offenders for driving while intoxicated or driving under the
19 influence) and 410 (relating to alcohol-impaired driving
20 countermeasures) and, notwithstanding section 3804(e)(2), may
21 reduce the suspension times from 12 and 18 months to 45 days
22 and apply restrictions as to driving purposes.

23 (c) Issuance of unrestricted license.--[One year from the
24 date of issuance of an ignition interlock restricted license]
25 The department shall not issue an unrestricted license until a
26 person has presented proof that the person has completed the
27 ignition interlock restricted license period as specified in
28 this section and fulfilled all obligations under the rental
29 agreement with the company that provided the ignition interlock
30 device. Upon completion of the restricted license requirements

under this section, if otherwise eligible, a person may be issued a replacement license under section 1951(d) that does not contain the ignition interlock system restriction.

* * *

(j) Ignition interlock program compliance.--A person with an ignition interlock restricted license shall report to the company responsible for servicing the ignition interlock system no less frequently than every 60 days at which time the data recorded by the device will be downloaded and the device and vehicle will be inspected for tampering or circumvention. Program compliance shall be based on monitor reports from calendar months, or partial months in the case of the first or last month. A violation of the program shall include:

(1) Any single event of tampering or circumvention in a monitor report.

(2) Any missed running retest where the vehicle is still running five minutes after the period allotted for the test in a monitor report.

(3) Any failed running retest where the vehicle is still running five minutes after the period allotted for the test in a monitor report.

(4) Failure to report for service of the interlock device within five days after the scheduled service date.

(5) Three failed breath alcohol tests provided while attempting to start the vehicle in a monitor report.

An individual shall not be assigned more than one violation per monitor report. Each time an individual accumulates three violations in 12 or fewer months the individual shall be subject to a 90-day extension of the ignition interlock restricted license requirement. An individual whose interlock restricted

1 license is extended by the department may petition the
2 department for a hearing to reconsider the extension. The
3 department shall develop rules defining necessary terms and
4 procedures and may consider extenuating and mitigating
5 circumstances in determining whether an extension to the
6 ignition interlock restricted license period should be assessed.

7 Section 3. Sections 3807(d) and 3808(c)(1) of Title 75 are
8 amended to read:

9 § 3807. Accelerated Rehabilitative Disposition.

10 * * *

11 (d) Mandatory suspension of operating privileges and
12 ignition interlock requirement.--As a condition of participation
13 in an Accelerated Rehabilitative Disposition program, the court
14 shall order the defendant's license suspended as follows:

15 (1) There shall be no license suspension if the
16 defendant's blood alcohol concentration at the time of
17 testing was less than 0.10%.

18 (2) For [30] 15 days if the defendant's blood alcohol
19 concentration at the time of testing was at least 0.10% but
20 less than 0.16%.

21 (3) For [60] 45 days after which the defendant shall
22 participate in and comply with the ignition interlock program
23 under section 3805 (relating to ignition interlock) for 12
24 months if:

25 (i) the defendant's blood alcohol concentration at
26 the time of testing was 0.16% or higher;

27 (ii) the defendant's blood alcohol concentration is
28 not known;

29 (iii) an accident which resulted in bodily injury or
30 in damage to a vehicle or other property occurred in

1 connection with the events surrounding the current
2 offense; or

3 (iv) the defendant was charged pursuant to section
4 3802(d).

5 (4) For 90 days if the defendant was a minor at the time
6 of the offense.

7 * * *

8 § 3808. Illegally operating a motor vehicle not equipped with
9 ignition interlock.

10 * * *

11 (c) Suspension of operating privilege.--Notwithstanding
12 section 3805(c) and (i):

13 (1) If a person who is required to only drive, operate
14 or be in actual physical control of the movement of a motor
15 vehicle equipped with an ignition interlock system violates
16 this section, upon receipt of a certified record of the
17 conviction, the department shall not issue a replacement
18 license to the person under section 1951(d) (relating to
19 driver's license and learner's permit) [that does not contain
20 an ignition interlock restriction for a period of one year
21 from the date of conviction.] until the person has complied
22 with the requirements of section 3805.

23 * * *

24 Section 4. This act shall take effect as follows:

25 (1) The addition of 75 Pa.C.S. § 3805(j) shall take
26 effect in 365 days.

27 (2) The remainder of this act shall take effect in 60
28 days.