

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2578 Session of
2008

INTRODUCED BY SOLOBAY, BELFANTI, BENNINGTON, BEYER, CAPPELLI,
CREIGHTON, CUTLER, DALEY, GEIST, GOODMAN, MAJOR, MANN,
MARSHALL, McCALL, McILHATTAN, MELIO, MILLARD, R. MILLER,
NAILOR, O'NEILL, RAMALEY, ROCK, WATSON AND J. WHITE,
JUNE 2, 2008

REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 2, 2008

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for revocation of habitual
3 offender's license, for driving while operating privilege is
4 suspended or revoked, for permitting violation of title, for
5 homicide by vehicle and for habitual offenders.

6 This act shall be referred to as Alex's Law.

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

9 Section 1. Sections 1542, 1543, 1575, 3732 and 6503.1 of
10 Title 75 of the Pennsylvania Consolidated Statutes are amended
11 to read:

12 § 1542. Revocation of habitual offender's license.

13 (a) General rule.--The department shall revoke the operating
14 privilege of any person found to be a habitual offender pursuant
15 to the provisions of this section. A "habitual offender" shall
16 be any person whose driving record, as maintained in the
17 department, shows that such person has accumulated the requisite
18 number of convictions for the separate and distinct offenses

1 described and enumerated in subsection (b) committed after the
2 effective date of this title and within any period of five years
3 thereafter.

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

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

10 (1.1) Any violation of Chapter 38 (relating to driving
11 after imbibing alcohol or utilizing drugs) except for
12 sections 3808(a)(1) and (b) (relating to illegally operating
13 a motor vehicle not equipped with ignition interlock) and
14 3809 (relating to restriction on alcoholic beverages).

15 (1.2) Any violation of section [1543(b)(1.1)] 1543(b)
16 (relating to driving while operating privilege is suspended
17 or revoked).

18 (2) Any violation of section 3367 (relating to racing on
19 highways).

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

22 (3.1) Any violation of section 3742.1 (relating to
23 accidents involving death or personal injury while not
24 properly licensed).

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

27 (c) Accelerative Rehabilitative Disposition as an offense.--
28 Acceptance of Accelerative Rehabilitative Disposition for any
29 offense enumerated in subsection (b) shall be considered an
30 offense for the purposes of this section.

1 (d) Period of revocation.--The operating privilege of any
2 person found to be a habitual offender under the provisions of
3 this section shall be revoked by the department for a period of
4 five years.

5 (e) Additional offenses.--Each additional offense committed
6 within a period of five years, as measured from the date of any
7 previous offense, shall result in a revocation for an additional
8 period of two years.

9 § 1543. Driving while operating privilege is suspended or
10 revoked.

11 (a) Offense defined.--Except as provided in subsection (b),
12 any person who drives a motor vehicle on any highway or
13 trafficway of this Commonwealth after the commencement of a
14 suspension, revocation or cancellation of the operating
15 privilege and before the operating privilege has been restored
16 is guilty of a summary offense and shall, upon conviction, be
17 sentenced to pay a fine of \$200.

18 (b) Certain offenses.--

19 (1) A person who drives a motor vehicle on a highway or
20 trafficway of this Commonwealth at a time when the person's
21 operating privilege is suspended or revoked as a condition of
22 acceptance of Accelerated Rehabilitative Disposition for a
23 violation of section 3802 (relating to driving under
24 influence of alcohol or controlled substance) or the former
25 section 3731 (relating to driving under influence of alcohol
26 or controlled substance), because of a violation of section
27 1547(b)(1) (relating to [suspension for refusal] chemical
28 testing to determine amount of alcohol or controlled
29 substance) or 3802 or former section 3731 or is suspended
30 under section 1581 (relating to Driver's License Compact) for

1 an offense substantially similar to a violation of section
2 3802 or former section 3731 shall, upon conviction, be guilty
3 of a summary offense and shall be sentenced to pay a fine of
4 \$500 and to undergo imprisonment for a period of not less
5 than 60 days nor more than 90 days.

6 (1.1) (i) A person who has an amount of alcohol by
7 weight in his blood that is equal to or greater than .02%
8 at the time of testing or who at the time of testing has
9 in his blood any amount of a Schedule I or nonprescribed
10 Schedule II or III controlled substance, as defined in
11 the act of April 14, 1972 (P.L.233, No.64), known as The
12 Controlled Substance, Drug, Device and Cosmetic Act, or
13 its metabolite and who drives a motor vehicle on any
14 highway or trafficway of this Commonwealth at a time when
15 the person's operating privilege is suspended or revoked
16 as a condition of acceptance of Accelerated
17 Rehabilitative Disposition for a violation of section
18 3802 or former section 3731 or because of a violation of
19 section 1547(b)(1) or 3802 or former section 3731 or is
20 suspended under section 1581 for an offense substantially
21 similar to a violation of section 3802 or former section
22 3731 shall, upon a first conviction, be guilty of a
23 summary offense and shall be sentenced to pay a fine of
24 \$1,000 and to undergo imprisonment for a period of not
25 less than 90 days.

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

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

6 (2) This subsection shall apply to any person against
7 whom one of these suspensions has been imposed whether the
8 person is currently serving this suspension or whether the
9 effective date of suspension has been deferred under any of
10 the provisions of section 1544 (relating to additional period
11 of revocation or suspension). This provision shall also apply
12 until the person has had the operating privilege restored.
13 This subsection shall also apply to any revocation imposed
14 pursuant to section 1542 (relating to revocation of habitual
15 offender's license) if any of the enumerated offenses was for
16 a violation of section 3802 or former section 3731 or for an
17 out-of-State offense that is substantially similar to a
18 violation of section 3802 or former section 3731, for which a
19 revocation is imposed under section 1581.

20 (3) Notwithstanding any other provision of law to the
21 contrary, if the police suspect that a driver may be charged
22 under this subsection, chemical testing shall be administered
23 under section 1547.

24 (c) Suspension or revocation of operating privilege.--Upon
25 receiving a certified record of the conviction of any person
26 under this section, the department shall suspend or revoke that
27 person's operating privilege as follows:

28 (1) If the department's records show that the person was
29 under suspension, recall or cancellation on the date of
30 violation, and had not been restored, the department shall

1 suspend the person's operating privilege for an additional
2 one-year period.

3 (2) If the department's records show that the person was
4 under revocation on the date of violation, and had not been
5 restored, the department shall revoke the person's operating
6 privilege for an additional two-year period.

7 (d) Citation of appropriate subsection.--Prior to filing a
8 citation for a violation of this section with the issuing
9 authority named in the citation, the police officer shall verify
10 the basis for the suspension with the department. Upon receiving
11 the verification, the officer shall cite the appropriate
12 subsection of this section on the citation.

13 § 1575. Permitting violation of title.

14 (a) General rule.--No person shall authorize or knowingly
15 permit a motor vehicle owned by him or under his control to be
16 driven in violation of any of the provisions of this title.

17 (b) Penalty.--Any person violating the provisions of
18 subsection (a) is guilty of a summary offense and is subject to
19 the same fine as the driver of the vehicle. If the driver is
20 convicted under section 1543 (relating to driving while
21 operating privilege is suspended or revoked), section 3735
22 (relating to homicide by vehicle while driving under influence)
23 or 3802 (relating to driving under influence of alcohol or
24 controlled substance), the person violating subsection (a) shall
25 also be subject to suspension or revocation, as applicable,
26 under sections 1532 (relating to [revocation or] suspension of
27 operating privilege), 1542 (relating to revocation of habitual
28 offender's license) and 3804(e) (relating to penalties).

29 (c) Indemnification.--In cases where a driver of a motor
30 vehicle is required to conduct a pretrip safety inspection

1 pursuant to department regulations and is subsequently convicted
2 of one or more equipment violations under this title, the owner
3 of the vehicle shall indemnify the driver for any fines and
4 costs paid if the specific equipment violation was listed on the
5 driver's pretrip inspection report and acknowledged in writing
6 by the owner.

7 (d) Impound of vehicle.--When an officer has probable cause
8 to believe that the registered owner of any motor vehicle
9 knowingly permitted use of his or her vehicle in violation of
10 section 1543(b), the officer shall impound the vehicle.

11 (e) Forfeiture of vehicle.--Any motor vehicle used in
12 violation of section 1543(b) shall be forfeited to the
13 Commonwealth if, upon hearing, the Commonwealth shows by a
14 preponderance of the evidence that the registered owner
15 knowingly permitted his or her vehicle to be operated by an
16 individual in violation of section 1543.

17 § 3732. Homicide by vehicle.

18 (a) Offense.--Any person who recklessly or with gross
19 negligence causes the death of another person while engaged in
20 the violation of any law of this Commonwealth or municipal
21 ordinance applying to the operation or use of a vehicle or to
22 the regulation of traffic except section 3802 (relating to
23 driving under influence of alcohol or controlled substance) is
24 guilty of homicide by vehicle, a felony of the third degree,
25 when the violation is the cause of death.

26 (b) Sentencing.--

27 (1) In addition to any other penalty provided by law, a
28 person convicted of a violation of subsection (a) may be
29 sentenced to an additional term not to exceed five years'
30 confinement if at trial the prosecution proves beyond a

1 reasonable doubt that the offense occurred in an active work
2 zone as defined in section 102 (relating to definitions).

3 (1.1) In addition to any other penalty provided by law,
4 a person convicted of a violation of subsection (a) may be
5 sentenced to an additional term not to exceed five years'
6 imprisonment if at trial the prosecution proves beyond a
7 reasonable doubt that the offense occurred while the driver's
8 operating privilege was suspended or revoked for a violation
9 of section 3802 or the former section 3731 (relating to
10 driving under influence of alcohol or controlled substance).

11 (2) The prosecution must indicate intent to proceed
12 under this section in the indictment or information which
13 commences the prosecution.

14 (3) The Pennsylvania Commission on Sentencing, pursuant
15 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
16 sentencing), shall provide for a sentencing enhancement for
17 an offense under this section when the violation occurred in
18 an active work zone as defined in section 102[.] and for an
19 offense that occurs while a driver's operating privilege was
20 suspended or revoked for a violation of section 3802 or the
21 former section 3731 (relating to driving under influence of
22 alcohol or controlled substance).

23 § 6503.1. Habitual offenders.

24 (a) Offense.--A habitual offender under section 1542
25 (relating to revocation of habitual offender's license) who
26 drives a motor vehicle on any highway or trafficway of this
27 Commonwealth while the habitual offender's operating privilege
28 is suspended, revoked or canceled commits a misdemeanor of the
29 second degree.

30 (b) Impound of vehicle.--When an officer has probable cause

1 to believe a person has violated subsection (a), the officer
2 shall not permit the suspected offender to drive the involved
3 vehicle. Instead, the officer may permit the registered owner to
4 remove the vehicle from the place of the traffic stop so long as
5 the registered owner is properly licensed to drive the vehicle
6 and there is not probable cause to believe the registered owner
7 knowingly permitted the suspected offender of subsection (a) to
8 drive the vehicle in violation of subsection (a). Otherwise, the
9 officer shall impound the vehicle.

10 (c) Forfeiture of vehicle.--Any motor vehicle used in
11 violation of this section shall be forfeited to the Commonwealth
12 if, upon hearing, the Commonwealth shows by a preponderance of
13 the evidence that the registered owner operated the vehicle in
14 violation of this section.

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