

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 1413** Session of  
2008

INTRODUCED BY STOUT, WASHINGTON, MUSTO, FONTANA, BOSCOLA,  
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KASUNIC, WONDERLING, EICHELBERGER, MELLOW, TARTAGLIONE,  
BRUBAKER, STACK AND ARMSTRONG, MAY 14, 2008

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
OCTOBER 6, 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

1 number of convictions for the separate and distinct offenses  
2 described and enumerated in subsection (b) committed after the  
3 effective date of this title and within any period of five years  
4 thereafter.

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

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

11 (1.1) Any violation of Chapter 38 (relating to driving  
12 after imbibing alcohol or utilizing drugs) except for  
13 sections 3808(a)(1) and (b) (relating to illegally operating  
14 a motor vehicle not equipped with ignition interlock) and  
15 3809 (relating to restriction on alcoholic beverages).

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

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

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

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

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

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

1 offense for the purposes of this section.

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

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

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

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

19 (b) Certain offenses.--

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

1 under section 1581 (relating to Driver's License Compact) for  
2 an offense substantially similar to a violation of section  
3 3802 or former section 3731 shall, upon conviction, be guilty  
4 of a summary offense and shall be sentenced to pay a fine of  
5 \$500 and to undergo imprisonment for a period of not less  
6 than 60 days nor more than 90 days.

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

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

1 than six months.

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

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

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

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

29 (1) If the department's records show that the person was  
30 under suspension, recall or cancellation on the date of

1 violation, and had not been restored, the department shall  
2 suspend the person's operating privilege for an additional  
3 one-year period.

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

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

14 § 1575. Permitting violation of title.

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

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

30 (c) Indemnification.--In cases where a driver of a motor

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

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

12 ~~(e) Forfeiture of vehicle. Any motor vehicle used in~~  
13 ~~violation of section 1543(b) shall be forfeited to the~~  
14 ~~Commonwealth if, upon hearing, the Commonwealth shows by a~~  
15 ~~preponderance of the evidence that the registered owner~~  
16 ~~knowingly permitted his or her vehicle to be operated by an~~  
17 ~~individual in violation of section 1543. ANY MOTOR VEHICLE USED <—~~  
18 ~~IN VIOLATION OF SECTION 1543(B) MAY BE IMPOUNDED FOR A PERIOD OF~~  
19 ~~90 DAYS IF THE COMMONWEALTH PROVES THAT THE REGISTERED OWNER~~  
20 ~~KNOWINGLY PERMITTED AN INDIVIDUAL TO OPERATE THE VEHICLE IN~~  
21 ~~VIOLATION OF SECTION 1543.~~

22 § 3732. Homicide by vehicle.

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

1 (b) Sentencing.--

2 (1) In addition to any other penalty provided by law, a  
3 person convicted of a violation of subsection (a) may be  
4 sentenced to an additional term not to exceed five years'  
5 confinement if at trial the prosecution proves beyond a  
6 reasonable doubt that the offense occurred in an active work  
7 zone as defined in section 102 (relating to definitions).

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

16 (2) The prosecution must indicate intent to proceed  
17 under this section in the indictment or information which  
18 commences the prosecution.

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

27 § 6503.1. Habitual offenders.

28 (a) General rule.--A habitual offender under section 1542  
29 (relating to revocation of habitual offender's license) who  
30 drives a motor vehicle on any highway or trafficway of this

1 Commonwealth while the habitual offender's operating privilege  
2 is suspended, revoked or canceled commits a misdemeanor of the  
3 second degree.

4 (b) Impound of vehicle.--When an officer has probable cause  
5 to believe a person has violated subsection (a), the officer  
6 shall not permit the suspected offender to drive the involved  
7 vehicle. ~~Instead, the~~ THE officer may permit the registered <—  
8 owner to remove the vehicle from the place of the traffic stop  
9 so long as the registered owner is properly licensed to drive  
10 the vehicle and ~~there is not~~ THE OFFICER DOES NOT HAVE probable <—  
11 cause to believe ISSUE A CITATION TO the registered owner <—  
12 knowingly permitted the suspected offender of subsection (a) to <—  
13 drive the vehicle in violation of subsection (a). FOR A <—  
14 VIOLATION OF SECTION 1575 (RELATING TO PERMITTING VIOLATION OF  
15 TITLE. Otherwise, the officer shall impound the vehicle.

16 (c) Forfeiture of vehicle.--Any motor vehicle used in  
17 violation of this section shall be forfeited to the Commonwealth  
18 if, upon hearing, the Commonwealth shows by a preponderance of  
19 the evidence that the registered owner operated the vehicle in  
20 violation of this section.

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