

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1444 Session of  
2008

INTRODUCED BY ORIE, BROWNE, LOGAN, PUNT AND WASHINGTON,  
JUNE 12, 2008

REFERRED TO JUDICIARY, JUNE 12, 2008

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75  
2 (Vehicles) of the Pennsylvania Consolidated Statutes,  
3 providing for bail for second-time DUI offenders; and further  
4 providing for definitions and for penalties.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 5762. Bail for second-time driving under influence offenders.

10 (a) Continuous alcohol monitoring.--When fixing bail for  
11 persons charged with their second violation of 75 Pa.C.S. § 3802  
12 (relating to driving under influence of alcohol or controlled  
13 substance) or a substantially similar provision in a  
14 jurisdiction outside this Commonwealth, the magisterial district  
15 judge or judge shall require the offender to abstain from using  
16 substances containing alcohol and to wear a continuous alcohol  
17 monitoring device in addition to or in lieu of imposing monetary  
18 conditions. The continuous alcohol monitoring device shall

1 ensure compliance with the conditions of pretrial release. The  
2 person shall be responsible for paying all costs associated with  
3 the monitoring, including installation, except as provided in  
4 subsection (c).

5 (b) Device tampering.--Tampering with or obstructing the  
6 continuous alcohol monitoring device shall constitute  
7 noncompliance with the conditions of pretrial release.

8 (c) Economic hardship.--A person subject to the requirements  
9 of subsection (a) may apply to the court for a hardship  
10 exemption to the requirement that the person pay all costs  
11 associated with monitoring. If the court finds that the  
12 applicant establishes that the requirement would result in undue  
13 financial hardship, it may determine what portion of the device  
14 cost the applicant will be responsible for, if any.

15 (d) Definition.--As used in this section, the term  
16 "continuous alcohol monitoring device" means a device approved  
17 by the Department of Transportation that automatically tests  
18 breath, blood or transdermal alcohol concentration levels once  
19 every hour and detects tamper attempts, regardless of the  
20 location of the person who is being monitored, and regularly  
21 transmits the data.

22 Section 2. Section 3801 of Title 75 is amended by adding a  
23 definition to read:

24 § 3801. Definitions.

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

28 \* \* \*

29 "Continuous alcohol monitoring device." A device approved by  
30 the Department of Transportation that automatically tests

1 breath, blood or transdermal alcohol concentration levels once  
2 every hour and detects tamper attempts, regardless of the  
3 location of the person who is being monitored, and regularly  
4 transmits the data.

5 \* \* \*

6 Section 3. Section 3804 of Title 75 is amended by adding a  
7 subsection to read:

8 § 3804. Penalties.

9 \* \* \*

10 (e.1) Suspensions spanning longer than 24 months.--Persons  
11 whose license is suspended for a period of two years or greater  
12 on account of repeat violations of section 3802(a) may reduce  
13 the total suspension period by up to six months by demonstrating  
14 sobriety for six months through continuous alcohol monitoring.

15 \* \* \*

16 Section 4. Section 3815 of Title 75 is amended by adding  
17 subsections to read:

18 § 3815. Mandatory sentencing.

19 \* \* \*

20 (b.1) Probation.--As a condition of a probation order, the  
21 court shall require persons penalized under section 3804(a)(3),  
22 (b)(3) or (c)(3) (relating to penalties) to abstain from  
23 consuming or using any substances containing alcohol and to wear  
24 a continuous alcohol monitoring device for the duration of the  
25 probationary period. The continuous alcohol monitoring device  
26 shall ensure compliance with the condition of abstinence to  
27 submit to continuous monitoring using a continuous alcohol  
28 monitoring device for the duration of the probationary period.  
29 Tampering with or obstructing the continuous alcohol monitoring  
30 device shall constitute noncompliance with the conditions of

1 probation. The person shall be responsible for paying all costs  
2 associated with the monitoring, including installation, except  
3 as provided in subsection (b.2).

4 (b.2) Economic hardship.--A person subject to the  
5 requirements of subsection (b.1) may apply to the department for  
6 a hardship exemption to the requirement that the person pay all  
7 costs associated with monitoring. If the department finds that  
8 the applicant establishes that the requirement would result in  
9 undue financial hardship, it may determine what portion of the  
10 device cost the applicant will be responsible for, if any.

11 \* \* \*

12 Section 5. This act shall take effect in 120 days.