

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 860 Session of 2011

INTRODUCED BY KULA, STABACK, READSHAW, STURLA, BOYD, BRENNAN, CARROLL, COHEN, CREIGHTON, GEIST, HORNAMAN, MAHONEY, MILLARD, PEIFER, PRESTON, QUINN, CUTLER, DALEY AND MOUL, MARCH 1, 2011

REFERRED TO COMMITTEE ON GAME AND FISHERIES, MARCH 1, 2011

AN ACT

1 Amending Title 34 (Game) of the Pennsylvania Consolidated
 2 Statutes, in protection of property and persons, further
 3 providing for hunting or furtaking prohibited while under
 4 influence of alcohol or controlled substance and for chemical
 5 test to determine amount of alcohol.

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

8 Section 1. Sections 2501(a)(4) and (a.1) and 2502(a) and (d)
 9 (2) and (3) of Title 34 of the Pennsylvania Consolidated

10 Statutes are amended to read:

11 § 2501. Hunting or furtaking prohibited while under influence
 12 of alcohol or controlled substance.

13 (a) General rule.--It is unlawful to hunt or take game,
 14 furbearers or wildlife or aid, abet, assist or conspire to hunt
 15 or take game, furbearers or wildlife anywhere in this
 16 Commonwealth while in possession of a firearm of any kind or a
 17 bow and arrow if:

18 * * *

19 (4) the amount of alcohol by weight in the blood of:

1 (i) an adult is [0.10%] 0.08% or greater; or

2 (ii) a minor is 0.02% or greater.

3 (a.1) Prima facie evidence.--

4 (1) It is prima facie evidence that:

5 (i) an adult had [0.10%] 0.08% or more by weight of
6 alcohol in his or her blood at the time of hunting or
7 taking of game, furbearers or wildlife or the aiding,
8 abetting, assisting or conspiring to hunt or take game,
9 furbearers or wildlife if the amount of alcohol by weight
10 in the blood of the person is equal to or greater than
11 [0.10%] 0.08% at the time a chemical test is performed on
12 a sample of the person's breath, blood or urine; or

13 (ii) a minor had 0.02% or more by weight of alcohol
14 in his or her blood at the time of hunting or taking of
15 game, furbearers or wildlife or the aiding, abetting,
16 assisting or conspiring to hunt or take game, furbearers
17 or wildlife if the amount of alcohol by weight in the
18 blood of the minor is equal to or greater than 0.02% at
19 the time a chemical test is performed on a sample of the
20 minor's breath, blood or urine.

21 (2) For the purpose of this section, the chemical test
22 of the sample of the person's or minor's breath, blood or
23 urine shall be from a sample obtained:

24 (i) within [three] two hours after the person or
25 minor hunted or took game, furbearers or wildlife or
26 aided, abetted, assisted or conspired to hunt or take
27 game, furbearers or wildlife; or

28 (ii) within a reasonable additional time after the
29 person or minor hunted or took game, furbearers or
30 wildlife or aided, abetted, assisted or conspired to hunt

1 or take game, furbearers or wildlife if the circumstances
2 of the incident prevented collecting the sample within
3 [three] two hours.

4 * * *

5 § 2502. Chemical test to determine amount of alcohol.

6 (a) [General rule] Consent to and administration of chemical
7 test.--

8 (1) Any person who hunts or takes or attempts, aids,
9 abets, assists or conspires to hunt or take game, furbearers
10 or wildlife shall be deemed to have given consent to a
11 chemical test of breath, blood or urine for the purpose of
12 determining the alcoholic content of blood or the presence of
13 a controlled substance if any officer whose duty it is to
14 enforce this title shall have reasonable grounds to believe
15 the person to have been hunting or taking, or assisting or
16 attempting to hunt or take, game, furbearers or wildlife
17 while under the influence of alcohol or a controlled
18 substance.

19 (2) The test shall be administered by personnel and
20 equipment approved by regulation of the commission. The
21 commission may also promulgate regulations otherwise relating
22 to the administration of this section.

23 * * *

24 (d) Presumptions from amount of alcohol.--If chemical
25 analysis of a person's breath, blood or urine shows:

26 * * *

27 (2) That the amount of alcohol by weight in the blood of
28 the person tested is in excess of 0.05% but less than [0.10%]
29 0.08%, this fact shall not give rise to any presumption that
30 the person tested was or was not under the influence of

1 alcohol, but this fact may be considered with other competent
2 evidence in determining whether the person was or was not
3 under the influence of alcohol.

4 (3) That the amount of alcohol by weight in the blood of
5 the person tested is [0.10%] 0.08% or more, it shall be
6 presumed that the defendant was under the influence of
7 alcohol.

8 * * *

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