

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1184 Session of
2011

INTRODUCED BY RAFFERTY, FONTANA, WASHINGTON, McILHINNEY, FERLO,
SCHWANK, BRUBAKER, MENSCH, SOLOBAY, D. WHITE AND SMUCKER,
JUNE 29, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 11,
2012

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, IN DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING
3 DRUGS, further providing for occupational limited license,
4 ~~for definitions, for penalties, for ignition interlock, for~~
5 ~~Accelerated Rehabilitative Disposition~~ and for illegally
6 operating a motor vehicle not equipped with ignition
7 interlock. ← ←

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

10 ~~Section 1. Section 1553(b)(1), (c), (d)(6) and (7), (d.1),~~ ←
11 ~~(d.2) and (f)(1) and (5) of Title 75 of the Pennsylvania~~
12 ~~Consolidated Statutes are amended and the section is amended by~~
13 ~~adding subsections to read:~~
14 ~~§ 1553. Occupational limited license.~~

15 * * *

16 ~~(b) Petition.~~

17 ~~(1) The applicant for an occupational limited license~~
18 ~~must file a petition with the department, by certified mail[,~~
19 ~~setting forth in detail the need for operating a motor~~

1 ~~vehicle]. The petition shall be on a form prescribed by the~~
2 ~~department and shall identify the specific motor vehicle or~~
3 ~~vehicles the petitioner seeks permission to operate. [The~~
4 ~~petition shall include an explanation as to why the operation~~
5 ~~of a motor vehicle is essential to the petitioner's~~
6 ~~occupation, work, trade, treatment or study. The petition~~
7 ~~shall identify the petitioner's employer, educational~~
8 ~~institution or treatment facility, as appropriate, and shall~~
9 ~~include proof of financial responsibility covering all~~
10 ~~vehicles which the petitioner requests to be allowed to~~
11 ~~operate. The department shall promulgate regulations to~~
12 ~~require additional information as well as additional evidence~~
13 ~~to verify the information contained in the petition.]~~

14 * * *

15 ~~(c) Fee. The fee for applying for an occupational limited~~
16 ~~license shall be [\$50] \$100. This fee shall be nonrefundable and~~
17 ~~no other fee shall be required.~~

18 ~~(d) Unauthorized issuance. The department shall prohibit~~
19 ~~issuance of an occupational limited license to:~~

20 * * *

21 ~~(6) Any person who has been adjudicated delinquent,~~
22 ~~granted a consent decree or granted Accelerated~~
23 ~~Rehabilitative Disposition for driving under the influence of~~
24 ~~alcohol or controlled substance unless the suspension or~~
25 ~~revocation imposed [for that conviction] under section~~
26 ~~3807(d) (relating to Accelerated Rehabilitative Disposition)~~
27 ~~has been [fully] served.~~

28 ~~(7) Any person whose operating privilege has been~~
29 ~~suspended for refusal to submit to chemical testing to~~
30 ~~determine the amount of alcohol or controlled substance~~

1 ~~unless 90 days of that suspension [has been fully] have been~~
2 ~~served.~~

3 ~~* * *~~

4 ~~(d.1) Adjudication eligibility. An individual who has been~~
5 ~~convicted of an offense under section 3802 (relating to driving~~
6 ~~under influence of alcohol or controlled substance) and does not~~
7 ~~have a prior offense as defined in section 3806(a) (relating to~~
8 ~~prior offenses) shall be eligible for an occupational limited~~
9 ~~license only if the individual [has served 60 days of the~~
10 ~~suspension imposed for the offense.] does all of the following:~~

11 ~~(1) Has served 15 days of the suspension imposed for the~~
12 ~~offense.~~

13 ~~(2) Only operates a motor vehicle equipped with an~~
14 ~~ignition interlock system as defined in section 3801~~
15 ~~(relating to definitions).~~

16 ~~(3) Has certified to the department that one or more~~
17 ~~motor vehicles owned, registered or to be operated by the~~
18 ~~individual has been equipped with a functioning ignition~~
19 ~~interlock system as defined in section 3801 (relating to~~
20 ~~definitions).~~

21 ~~(d.2) Suspension eligibility.—~~

22 ~~(1) An individual whose license has been suspended for a~~
23 ~~period of 18 months under section 1547(b) (1) (ii) (relating to~~
24 ~~chemical testing to determine amount of alcohol or controlled~~
25 ~~substance) or 3804(e) (2) (ii) (relating to penalties) shall~~
26 ~~not be prohibited from obtaining an occupational limited~~
27 ~~license under this section if the individual:~~

28 ~~(i) is otherwise eligible for restoration;~~

29 ~~(ii) has served [12 months] 90 days of the~~
30 ~~suspension imposed for the offense;~~

~~[(iii) has no more than one prior offense as defined in section 3806(b);]~~

~~(iv) only operates a motor vehicle equipped with an ignition interlock system as defined in section 3801 [(relating to definitions)]; and~~

~~(v) has certified to the department [under paragraph (3)] that one or more motor vehicles owned, registered or to be operated by the individual have been equipped with a functioning ignition interlock system as defined in section 3801.~~

~~[(2) A period of ignition interlock accepted under this subsection shall not count towards the one year mandatory period of ignition interlock imposed under section 3805 (relating to ignition interlock).~~

~~(3) If an individual seeks an occupational limited license under this subsection, the department shall require that each motor vehicle owned or registered to the person has been equipped with an ignition interlock system as defined in section 3801 as a condition of issuing an occupational limited license with an ignition interlock restriction.]~~

~~* * *~~

~~(d.4) Credit against mandatory ignition interlock requirement. A period of ignition interlock usage required as a condition of issuance of an occupational restricted license under subsection (d.1) or (d.2) shall count on a day for day basis toward the mandatory period of ignition interlock usage imposed under the applicable subparagraphs of section 3805(b)(2) (relating to ignition interlock).~~

~~(d.5) Certification to the department. If an individual seeks an occupational limited license under this subsection, the~~

~~department shall require that one or more motor vehicles owned,
registered or to be operated by the person have been equipped
with a functioning ignition interlock system as defined in
section 3801 as a condition of issuing an occupation limited
license with an ignition interlock restriction.~~

~~* * *~~

~~(f) Restrictions. A driver who has been issued an
occupational limited license shall observe the following:~~

~~(1) The driver shall only operate a designated vehicle
[only:~~

~~(i) Between the driver's place of residence and
place of employment or study and as necessary in the
course of employment or conducting a business or pursuing
a course of study where the operation of a motor vehicle
is a requirement of employment or of conducting a
business or of pursuing a course of study.~~

~~(ii) To and from a place for scheduled or emergency
medical examination or treatment. This subparagraph
includes treatment required under Chapter 38 (relating to
driving after imbibing alcohol or utilizing drugs).]
equipped with an ignition interlock device.~~

~~* * *~~

~~(5) A driver who has been issued an occupational limited
license shall possess a completed occupational limited
license affidavit on a form prescribed by the department at
all times when operating a motor vehicle. The driver shall
exhibit the completed form upon demand by a police officer.
[The affidavit shall indicate that the driver is operating
the motor vehicle at a time and between places in accordance
with the restrictions of paragraph (1).] An occupational~~

~~limited license affidavit shall contain information required
by regulations which shall be promulgated by the department.
The driver is not required to possess a completed
occupational limited license affidavit when operating a motor
vehicle to a location for emergency medical treatment.~~

~~* * *~~

~~Section 2. Sections 3801 and 3804(a), (b) and (c) of Title
75 are amended to read:~~

~~§ 3801. Definitions.~~

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

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

~~"Ignition interlock system." A system approved by the
department which prevents a vehicle from being started [or
operated] unless the operator first provides a breath sample
indicating that the operator has an alcohol level less than
0.025%.~~

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

~~SECTION 1. SECTIONS 1553(D.1) AND 3804(A), (B) AND (C) OF
TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED
TO READ:~~

~~§ 1553. OCCUPATIONAL LIMITED LICENSE.~~

~~* * *~~

~~[(D.1) ADJUDICATION ELIGIBILITY.--AN INDIVIDUAL WHO HAS BEEN
CONVICTED OF AN OFFENSE UNDER SECTION 3802 (RELATING TO DRIVING
UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) AND DOES NOT
HAVE A PRIOR OFFENSE AS DEFINED IN SECTION 3806(A) (RELATING TO
PRIOR OFFENSES) SHALL BE ELIGIBLE FOR AN OCCUPATIONAL LIMITED
LICENSE ONLY IF THE INDIVIDUAL HAS SERVED 60 DAYS OF THE~~

1 SUSPENSION IMPOSED FOR THE OFFENSE.]

2 * * *

3 § 3804. Penalties.

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

8 (1) For a first offense, to:

9 (i) undergo a mandatory minimum term of six months'
10 probation;

11 (ii) pay a fine of \$300;

12 (iii) attend an alcohol highway safety school
13 approved by the department; ~~and~~ ←

14 (iv) comply with all drug and alcohol treatment
15 requirements imposed under sections 3814 (relating to
16 drug and alcohol assessments) and 3815 (relating to
17 mandatory sentencing) ~~and~~. ←

18 ~~(v) participate in and comply with the ignition~~ ←
19 ~~interlock program under section 3805 (relating to~~
20 ~~ignition interlock).~~

21 (2) For a second offense, to:

22 (i) undergo imprisonment for not less than five
23 days;

24 (ii) pay a fine of not less than \$300 nor more than
25 \$2,500;

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

28 (iv) comply with all drug and alcohol treatment
29 requirements imposed under sections 3814 and 3815 ~~and~~

30 ~~(v) participate in and comply with the ignition~~

interlock program under section 3805 (RELATING TO
IGNITION INTERLOCK).

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

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

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

(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:

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

(ii) pay a fine of not less than \$1,500;

(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 or subsequent offense, to:

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

(ii) pay a fine of not less than \$2,500; [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.

* * *

Section 3 2. Section 3805(a), (b) and (c) of Title 75 are amended and the section is amended by adding a subsection to read:

§ 3805. Ignition interlock.



1 (a) General rule.--If a person violates section 3802
2 (relating to driving under influence of alcohol or controlled
3 substance) [and, within the past ten years, has a prior offense
4 as defined in section 3806(a) (relating to prior offenses)] or
5 has had their operating privileges suspended pursuant to section
6 1547(b.1) (relating to chemical testing to determine amount of
7 alcohol or controlled substance) or 3808(c) (relating to
8 illegally operating a motor vehicle not equipped with ignition
9 interlock) and the person seeks a restoration of operating
10 privileges, the department shall require as a condition of
11 issuing a restricted license pursuant to this section that ~~the~~ ←
12 following occur:

13 (1) Each motor vehicle owned by the person or registered
14 to the person has been equipped with an ignition interlock
15 system and remains so for the duration of the restricted
16 license period.

17 (2) If there are no motor vehicles owned by the person
18 or registered to the person that the person so certify to the
19 department. A person so certifying shall be deemed to have
20 satisfied the requirement that all motor vehicles owned by
21 the person or registered to the person be equipped with an
22 ignition interlock system as required by this subsection.} ←

23 ~~one or more motor vehicles owned by, registered to or to be~~
24 ~~operated by the person have been equipped with an ignition~~
25 ~~interlock system and remain equipped for the duration of the~~
26 ~~restricted license period.~~

27 (b) Application for a restricted license.--A person subject
28 to this section shall apply to the department for an ignition
29 interlock restricted license under section 1951 (relating to
30 driver's license and learner's permit), which shall be clearly

1 marked to restrict the person to only driving, operating or
2 being in actual physical control of the movement of motor
3 vehicles equipped with an ignition interlock system. The
4 department shall:

5 (1) Upon issuance of an ignition interlock restricted
6 license to any person, {the department shall} notify the ←
7 person that until the person obtains an unrestricted license
8 the person may not {own, register,} drive, operate or be in ←
9 actual physical control of the movement of any motor vehicle
10 which is not equipped with an ignition interlock system.

11 (2) Require that a person subject to the requirements of
12 subsection (h.2) maintain an ignition interlock restricted
13 license for the following periods:

14 (i) An individual sentenced under section 3804 (a) ←
15 ~~(1) and (b) (1)~~ 3804(B) (1) (relating to penalties) shall ←
16 be required to maintain a restricted license for six
17 months.

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

21 ~~(iii) An individual sentenced under section 3804(c)~~ ←
22 ~~(1) shall be required to maintain a restricted license~~
23 ~~for 18 months.~~

24 ~~(iv) An individual sentenced under section 3804(c)~~
25 ~~(3) shall be required to maintain a restricted license~~
26 ~~for 36 months.~~

27 (III) AN INDIVIDUAL SENTENCED UNDER SECTION ←
28 3804(A) (3) OR (B) (3) OR (4) SHALL BE REQUIRED TO MAINTAIN
29 A RESTRICTED LICENSE FOR 18 MONTHS.

30 (IV) AN INDIVIDUAL SENTENCED UNDER SECTION

3804(C) (1) SHALL BE REQUIRED TO MAINTAIN A RESTRICTED
LICENSE FOR 12 MONTHS.

(V) AN INDIVIDUAL SENTENCED UNDER SECTION 3804(C) (2)
SHALL BE REQUIRED TO MAINTAIN A RESTRICTED LICENSE FOR 18
MONTHS.

(VI) AN INDIVIDUAL SENTENCED UNDER SECTION
3804(C) (3) SHALL BE REQUIRED TO MAINTAIN A RESTRICTED
LICENSE FOR 24 MONTHS.

(c) Issuance of unrestricted license.--[One year from the
date of issuance of an ignition interlock restricted license
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.]

(1) The department shall not issue an unrestricted
license until a person has presented all of the following:

(i) Proof that the person has completed the ignition
interlock restricted license period as specified under
this section.

(ii) Certification by the ~~company~~ VENDOR that
provided the ignition interlock device that the person is
in compliance with subsection (h.2).

(2) 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.

* * *

(h.2) Declaration of compliance.--Restrictions imposed under
~~section 1553 (relating to occupational limited license) or 3807~~
(relating to Accelerated Rehabilitative Disposition) shall

remain in effect until the department receives a declaration
from the person's ignition interlock device vendor, in a form
provided or approved by the department, certifying that there
have been none of the following incidents in the four
consecutive months prior to the date entered on the certificate:

(1) An attempt to start the vehicle with a breath
alcohol concentration of 0.08 or more.

(2) Failure to take or pass any required retest.

(3) Failure of the person to appear at the ignition
interlock device vendor when required for maintenance,
repair, calibration, monitoring, inspection or replacement of
the device.

* * *

~~Section 4. Sections 3807(d)(1), (2) and (3) and 3. SECTION~~
~~3808(c)(1) of Title 75 are IS amended to read:~~

~~§ 3807. Accelerated Rehabilitative Disposition.~~

~~* * *~~

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

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

~~(2) For [30] 15 days if the defendant's blood alcohol~~
~~concentration at the time of testing was at least [0.10%]~~
~~0.08% but less than 0.16%, after which the defendant shall~~
~~participate in and comply with the ignition interlock program~~
~~under section 3805 (relating to ignition interlock) for six~~
~~months.~~

1 ~~(3) For [60] 45 days, after which the defendant shall~~
2 ~~participate in and comply with the ignition interlock program~~
3 ~~under section 3805 for one year, if:~~

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

6 ~~(ii) the defendant's blood alcohol concentration is~~
7 ~~not known;~~

8 ~~(iii) an accident which resulted in bodily injury or~~
9 ~~in damage to a vehicle or other property occurred in~~
10 ~~connection with the events surrounding the current~~
11 ~~offense; or~~

12 ~~(iv) the defendant was charged pursuant to section~~
13 ~~3802(d).~~

14 * * *

15 § 3808. Illegally operating a motor vehicle not equipped with
16 ignition interlock.

17 * * *

18 (c) Suspension of operating privilege.--Notwithstanding
19 section 3805(c) and (i):

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

30 * * *

1 SECTION 4. ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar
2 AS THEY ARE INCONSISTENT WITH THIS ACT.
3 Section 5. This act shall take effect in 90 days.

