

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1239 Session of 2014

INTRODUCED BY RAFFERTY, STACK, ERICKSON, VULAKOVICH, GORDNER, SCHWANK, TOMLINSON, BRUBAKER, SOLOBAY AND DINNIMAN, JANUARY 24, 2014

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 14, 2014

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, IN LICENSING OF DRIVERS, FURTHER PROVIDING FOR <--
3 OCCUPATIONAL LIMITED LICENSE; IN DRIVING AFTER IMBIBING <--
4 ALCOHOL OR UTILIZING DRUGS, further providing for grading AND <--
5 FOR PRIOR OFFENSES; AND, IN ENFORCEMENT, FURTHER PROVIDING <--
6 FOR REPORTS BY COURTS.

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

9 ~~Section 1. Section 3803(a) of Title 75 of the Pennsylvania~~ <--
10 ~~Consolidated Statutes is amended to read:~~

11 ~~SECTION 1. SECTIONS 3803(A) AND 3806(B) OF TITLE 75 OF THE~~ <--
12 ~~PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:~~

13 SECTION 1. SECTIONS 1553(D)(10), 3803(A), 3806(B) AND <--
14 6323(1) OF TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES
15 ARE AMENDED TO READ:

16 § 1553. OCCUPATIONAL LIMITED LICENSE.

17 * * *

18 (D) UNAUTHORIZED ISSUANCE.--THE DEPARTMENT SHALL PROHIBIT

1 ISSUANCE OF AN OCCUPATIONAL LIMITED LICENSE TO:

2 * * *

3 (10) [ANY] (I) EXCEPT AS PROVIDED UNDER SUBPARAGRAPH
4 (II), ANY PERSON WHOSE OPERATING PRIVILEGE HAS BEEN
5 SUSPENDED PURSUANT TO EITHER FORMER SECTION 13(M) OF THE
6 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
7 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
8 SECTION 1532(C) (RELATING TO SUSPENSION OF OPERATING
9 PRIVILEGE) UNLESS THE SUSPENSION IMPOSED HAS BEEN FULLY
10 SERVED.

11 (II) SUBPARAGRAPH (I) SHALL NOT APPLY TO A PERSON
12 WHOSE:

13 (A) OPERATING PRIVILEGE HAS BEEN SUSPENDED
14 PURSUANT TO EITHER:

15 (I) FORMER SECTION 13(M) OF THE CONTROLLED
16 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT; OR

17 (II) SECTION 1532(C) FOR A CONVICTION OF ANY
18 OFFENSE INVOLVING THE POSSESSION, SALE, DELIVERY,
19 OFFERING FOR SALE, HOLDING FOR SALE OR GIVING
20 AWAY OF ANY CONTROLLED SUBSTANCE UNDER THE LAWS
21 OF THE UNITED STATES, THIS COMMONWEALTH OR ANY
22 OTHER STATE; AND

23 (B) RECORD OF CONVICTION, ADJUDICATION OF
24 DELINQUENCY OR A GRANTING OF A CONSENT DECREE WAS NOT
25 SENT TO THE DEPARTMENT WITHIN THE TIME PERIOD
26 REQUIRED UNDER SECTION 6323(1) (RELATING TO REPORTS
27 BY COURTS).

28 * * *

29 § 3803. Grading.

30 (a) Basic offenses.--[Notwithstanding the provisions of]

1 Except as provided in subsection (b):

2 (1) An individual who violates section 3802(a) (relating
3 to driving under influence of alcohol or controlled
4 substance) and has no more than one prior offense commits a
5 misdemeanor for which the individual may be sentenced to a
6 term of imprisonment of not more than six months and to pay a
7 fine under section 3804 (relating to penalties).

8 (2) An individual who violates section 3802(a) and has
9 more than one prior offense commits a misdemeanor of the
10 second degree.

11 * * *

12 § 3806. PRIOR OFFENSES. <--

13 * * *

14 (B) REPEAT OFFENSES WITHIN TEN YEARS.--THE CALCULATION OF
15 PRIOR OFFENSES FOR PURPOSES OF SECTIONS 1553(D.2) (RELATING TO
16 OCCUPATIONAL LIMITED LICENSE), 3803 (RELATING TO GRADING) AND
17 3804 (RELATING TO PENALTIES) SHALL INCLUDE ANY CONVICTION,
18 WHETHER OR NOT JUDGMENT OF SENTENCE HAS BEEN IMPOSED FOR THE
19 VIOLATION, ADJUDICATION OF DELINQUENCY, JUVENILE CONSENT DECREE,
20 ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION OR OTHER
21 FORM OF PRELIMINARY DISPOSITION WITHIN THE TEN YEARS BEFORE THE
22 [PRESENT VIOLATION OCCURRED] SENTENCING ON THE PRESENT VIOLATION
23 FOR ANY OF THE FOLLOWING:

- 24 (1) AN OFFENSE UNDER SECTION 3802;
25 (2) AN OFFENSE UNDER FORMER SECTION 3731;
26 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
27 PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR
28 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
29 PARAGRAPH (1), (2) OR (3).

30 § 6323. REPORTS BY COURTS. <--

1 SUBJECT TO ANY INCONSISTENT PROCEDURES AND STANDARDS RELATING
2 TO REPORTS AND TRANSMISSION OF FUNDS PRESCRIBED PURSUANT TO
3 TITLE 42 (RELATING TO JUDICIARY AND JUDICIAL PROCEDURE):

4 (1) THE FOLLOWING SHALL APPLY:

5 (I) THE CLERK OF ANY COURT OF THIS COMMONWEALTH,
6 WITHIN TEN DAYS AFTER FINAL JUDGMENT OF CONVICTION OR
7 ACQUITTAL OR OTHER DISPOSITION OF CHARGES UNDER ANY OF
8 THE PROVISIONS OF THIS TITLE OR UNDER SECTION 13 OF THE
9 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
10 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT,
11 INCLUDING AN ADJUDICATION OF DELINQUENCY OR THE GRANTING
12 OF A CONSENT DECREE, SHALL SEND TO THE DEPARTMENT A
13 RECORD OF THE JUDGMENT OF CONVICTION, ACQUITTAL OR OTHER
14 DISPOSITION.

15 (II) THE FOLLOWING SHALL APPLY:

16 (A) THE CLERK OF ANY COURT OF THIS COMMONWEALTH
17 SHALL, BY JANUARY 1, 2016, SEND TO THE DEPARTMENT
18 EACH RECORD OF THE FOLLOWING, INCLUDING AN
19 ADJUDICATION OF DELINQUENCY OR THE GRANTING OF A
20 CONSENT DECREE, THAT WAS NOT SENT WITHIN TEN DAYS
21 AFTER FINAL JUDGMENT OF CONVICTION OR ACQUITTAL OR
22 OTHER DISPOSITION:

23 (I) A JUDGMENT OF CONVICTION, ADJUDICATION
24 OF DELINQUENCY OR A GRANTING OF A CONSENT DECREE
25 UNDER SECTION 13 OF THE CONTROLLED SUBSTANCE,
26 DRUG, DEVICE AND COSMETIC ACT.

27 (II) A JUDGMENT OF CONVICTION, ADJUDICATION
28 OF DELINQUENCY OR A GRANTING OF A CONSENT DECREE
29 UNDER SECTION 1532(C) (RELATING TO SUSPENSION OF
30 OPERATING PRIVILEGE) FOR A CONVICTION OF ANY

1 OFFENSE INVOLVING THE POSSESSION, SALE, DELIVERY,
2 OFFERING FOR SALE, HOLDING FOR SALE OR GIVING
3 AWAY OF ANY CONTROLLED SUBSTANCE UNDER THE LAWS
4 OF THE UNITED STATES, THIS COMMONWEALTH OR ANY
5 OTHER STATE.

6 (B) A FILING MADE UNDER THIS SUBPARAGRAPH SHALL
7 BE VALID FOR THE PURPOSES OF THIS TITLE.

8 * * *

9 SECTION 2. THE AMENDMENT OF 75 PA.C.S. § 3806(B) SHALL APPLY
10 TO PERSONS SENTENCED ON OR AFTER THE EFFECTIVE DATE OF THIS
11 SECTION.

12 SECTION 3. THE AMENDMENT OF 75 PA.C.S. § 1553(D)(10)(II) <--
13 SHALL BE APPLIED RETROACTIVELY TO JANUARY 1, 2004, IN CASES
14 WHERE THE RECORD OF A JUDGMENT OF CONVICTION, ADJUDICATION OF
15 DELINQUENCY OR A GRANTING OF A CONSENT DECREE WAS SENT TO THE
16 DEPARTMENT OF TRANSPORTATION PRIOR TO THE EFFECTIVE DATE OF THIS
17 SECTION, BUT NOT WITHIN THE TIME PERIOD REQUIRED UNDER 75
18 PA.C.S. § 6323(1).

19 Section ~~2~~ 3 4. This act shall take effect ~~immediately~~. AS <--
20 FOLLOWS:

21 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
22 IMMEDIATELY:

23 (I) THIS SECTION AND SECTION 3 OF THIS ACT. <--

24 (II) THE AMENDMENT OF 75 PA.C.S. ~~§ 3803(A)~~ §§ <--
25 1553(D)(10), 3803(A) AND 6323(1).

26 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
27 DAYS.