
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 290 Session of
2015

INTRODUCED BY RAFFERTY, SMUCKER, SCARNATI, GREENLEAF,
VULAKOVICH, AUMENT, VANCE, STACK, TEPLITZ, SCHWANK, BLAKE AND
DINNIMAN, JANUARY 16, 2015

REFERRED TO TRANSPORTATION, JANUARY 16, 2015

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 chemical testing to determine amount of alcohol or controlled
5 substance and for occupational limited license and providing
6 for ignition interlock limited license; and, in driving after
7 imbibing alcohol or utilizing drugs, further providing for
8 ignition interlock and for the offense of illegally operating
9 a motor vehicle not equipped with ignition interlock.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 102 of Title 75 of the Pennsylvania
13 Consolidated Statutes is amended by adding a definition to read:

14 § 102. Definitions.

15 Subject to additional definitions contained in subsequent
16 provisions of this title which are applicable to specific
17 provisions of this title, the following words and phrases when
18 used in this title shall have, unless the context clearly
19 indicates otherwise, the meanings given to them in this section:

20 * * *

21 "Ignition interlock limited license." A driver's license

1 issued to an individual whose operating privilege is suspended
2 or revoked for one or more violations of section 1547 (relating
3 to chemical testing to determine amount of alcohol or controlled
4 substance) or 3802 (relating to driving under influence of
5 alcohol or controlled substance) requiring the individual to
6 operate only motor vehicles equipped with a functioning ignition
7 interlock system.

8 * * *

9 Section 2. Sections 1547(a), (c) introductory paragraph, (2)
10 and (3), (g.1), (h), (i) and (j) and 1553(a)(1), (d)(6), (7) and
11 (8), (d.1) and (d.2) of Title 75 are amended to read:

12 § 1547. Chemical testing to determine amount of alcohol or
13 controlled substance.

14 (a) General rule.--Any person who drives, operates or is in
15 actual physical control of the movement of a vehicle in this
16 Commonwealth shall be deemed to have given consent to one or
17 more chemical tests of breath[, blood or urine] or blood for the
18 purpose of determining the alcoholic content of blood or the
19 presence of a controlled substance if a police officer has
20 reasonable grounds to believe the person to have been driving,
21 operating or in actual physical control of the movement of a
22 vehicle:

23 (1) in violation of section 1543(b)(1.1) (relating to
24 driving while operating privilege is suspended or revoked),
25 3802 (relating to driving under influence of alcohol or
26 controlled substance) or 3808(a)(2) (relating to illegally
27 operating a motor vehicle not equipped with ignition
28 interlock); or

29 (2) which was involved in an accident in which the
30 operator or passenger of any vehicle involved or a pedestrian

1 required treatment at a medical facility or was killed.

2 * * *

3 (c) Test results admissible in evidence.--In any summary
4 proceeding or criminal proceeding in which the defendant is
5 charged with a violation of section 3802 or any other violation
6 of this title arising out of the same action, the amount of
7 alcohol or controlled substance in the defendant's blood, as
8 shown by chemical testing of the person's breath[, blood or
9 urine] or blood, which tests were conducted by qualified persons
10 using approved equipment, shall be admissible in evidence.

11 * * *

12 (2) (i) Chemical tests of blood [or urine], if
13 conducted by a facility located in this Commonwealth,
14 shall be performed by a clinical laboratory licensed and
15 approved by the Department of Health for this purpose
16 using procedures and equipment prescribed by the
17 Department of Health or by a Pennsylvania State Police
18 criminal laboratory. For purposes of blood [and urine]
19 testing, qualified person means an individual who is
20 authorized to perform those chemical tests under the act
21 of September 26, 1951 (P.L.1539, No.389), known as The
22 Clinical Laboratory Act.

23 (ii) For purposes of blood [and urine] testing to
24 determine blood alcohol or controlled substance content
25 levels, the procedures and equipment prescribed by the
26 Department of Health shall be reviewed within 120 days of
27 the effective date of this subparagraph and at least
28 every two years thereafter to ensure that consideration
29 is given to scientific and technological advances so that
30 testing conducted in accordance with the prescribed

1 procedures utilizing the prescribed equipment will be as
2 accurate and reliable as science and technology permit.

3 (3) Chemical tests of blood [or urine], if conducted by
4 a facility located outside this Commonwealth, shall be
5 performed:

6 (i) by a facility licensed and approved by the
7 Department of Health for this purpose; or

8 (ii) by a facility licensed to conduct the tests by
9 the state in which the facility is located and licensed
10 pursuant to the Clinical Laboratory Improvement
11 Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).

12 * * *

13 (g.1) Cost of testing.--The cost of chemical testing,
14 including the drawing of blood [and urine], performed under this
15 section shall be paid as follows:

16 (1) By the individual tested, if the individual was
17 convicted of or placed into any preadjudication program or
18 adjudicated delinquent for a violation of section 3802.

19 (2) By the requesting authority, if the individual was
20 found not guilty under section 3802 or had the charges
21 dismissed or withdrawn.

22 (h) Test by personal physician.--The person tested shall be
23 permitted to have a physician of his own choosing administer an
24 additional breath[, blood or urine] or blood chemical test and
25 the results of the test shall also be admissible in evidence.
26 The chemical testing given at the direction of the police
27 officer shall not be delayed by a person's attempt to obtain an
28 additional test.

29 (i) Request by driver for test.--Any person involved in an
30 accident or placed under arrest for a violation of section

1 1543(b)(1.1), 3802 or 3808(a)(2) may request a chemical test of
2 his breath[, blood or urine] or blood. Such requests shall be
3 honored when it is reasonably practicable to do so.

4 (j) Immunity from civil liability and reports.--No
5 physician, nurse or technician or hospital employing such
6 physician, nurse or technician, and no other employer of such
7 physician, nurse or technician shall be civilly liable for
8 withdrawing blood [or obtaining a urine sample] and reporting
9 test results to the police at the request of a police officer
10 pursuant to this section. No physician, nurse or technician or
11 hospital employing such physician, nurse or technician may
12 administratively refuse to perform such tests and provide the
13 results to the police officer except as may be reasonably
14 expected from unusual circumstances that pertain at the time the
15 request is made.

16 * * *

17 § 1553. Occupational limited license.

18 (a) Issuance.--

19 (1) The department shall issue an occupational limited
20 license under the provisions of this section to a driver
21 whose operating privileges have been suspended for a
22 violation of this title, except for an offense under section
23 3802 (relating to driving under influence of alcohol or
24 controlled substance) or under former section 3731 (relating
25 to driving under influence of alcohol or controlled
26 substance) or for a refusal to submit to chemical testing
27 under section 1547 (relating to chemical testing to determine
28 amount of alcohol or controlled substance), and is not
29 prohibited under any other provision in this section. If the
30 underlying reason for the suspension was caused by violations

1 committed while the driver was operating a commercial motor
2 vehicle, the driver shall not be issued an occupational
3 limited license for the purpose of operating a commercial
4 motor vehicle. The department shall prohibit the issuance of
5 an occupational limited license when disqualified from doing
6 so under the Commercial Motor Vehicle Safety Act of 1986
7 (Title XII of Public Law 99-570, 49 U.S.C. App. § 2701 et
8 seq.) or the Motor Carrier Safety Improvement Act of 1999
9 (Public Law 106-159, 113 Stat. 1748).

10 * * *

11 (d) Unauthorized issuance.--The department shall prohibit
12 issuance of an occupational limited license to:

13 * * *

14 [(6) Any person who has been adjudicated delinquent,
15 granted a consent decree or granted Accelerated
16 Rehabilitative Disposition for driving under the influence of
17 alcohol or controlled substance unless the suspension or
18 revocation imposed for that conviction has been fully served.

19 (7) Any person whose operating privilege has been
20 suspended for refusal to submit to chemical testing to
21 determine the amount of alcohol or controlled substance
22 unless that suspension has been fully served.

23 (8) Except as set forth in subsections (d.1) and (d.2),
24 any person who has been convicted of driving under the
25 influence of alcohol or controlled substance and whose
26 license has been suspended by the department unless the
27 suspension imposed has been fully served.]

28 * * *

29 [(d.1) Adjudication eligibility.--An individual who has been
30 convicted of an offense under section 3802 (relating to driving

1 under influence of alcohol or controlled substance) and does not
2 have a prior offense as defined in section 3806(a) (relating to
3 prior offenses) shall be eligible for an occupational limited
4 license only if the individual has served 60 days of the
5 suspension imposed for the offense.

6 (d.2) Suspension eligibility.--

7 (1) An individual whose license has been suspended for a
8 period of 18 months under section 1547(b)(1)(ii) (relating to
9 chemical testing to determine amount of alcohol or controlled
10 substance) or 3804(e)(2)(ii) (relating to penalties) shall
11 not be prohibited from obtaining an occupational limited
12 license under this section if the individual:

13 (i) is otherwise eligible for restoration;

14 (ii) has served 12 months of the suspension imposed
15 for the offense;

16 (iii) has no more than one prior offense as defined
17 in section 3806(b);

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

21 (v) has certified to the department under paragraph
22 (3).

23 (2) A period of ignition interlock accepted under this
24 subsection shall not count towards the one-year mandatory
25 period of ignition interlock imposed under section 3805
26 (relating to ignition interlock).

27 (3) If an individual seeks an occupational limited
28 license under this subsection, the department shall require
29 that each motor vehicle owned or registered to the person has
30 been equipped with an ignition interlock system as defined in

1 section 3801 as a condition of issuing an occupational
2 limited license with an ignition interlock restriction.]

3 * * *

4 Section 3. Title 75 is amended by adding a section to read:

5 § 1556. Ignition interlock limited license.

6 (a) Issuance.--

7 (1) The department shall issue an ignition interlock
8 limited license under this section to an individual whose
9 operating privileges have been suspended for:

10 (i) a violation under section 3802 (relating to
11 driving under influence of alcohol or controlled
12 substance) or under former section 3731 (relating to
13 driving under influence of alcohol or controlled
14 substance); or

15 (ii) a refusal to submit to chemical testing under
16 section 1547 (relating to chemical testing to determine
17 amount of alcohol or controlled substance).

18 (2) The department shall issue an ignition interlock
19 limited license under the provisions of this section only
20 upon receiving proof that each motor vehicle owned or to be
21 operated by the individual has been equipped with an approved
22 ignition interlock system as defined in section 3801
23 (relating to definitions) as a condition of issuing an
24 ignition interlock limited license.

25 (3) An ignition interlock limited license issued under
26 the provisions of this section permits an individual to
27 operate motor vehicles equipped with a functioning ignition
28 interlock system, as defined in section 3801.

29 (4) Any period in which an individual holds a valid
30 ignition interlock limited license under this section shall

1 count on a day-for-day basis toward any mandatory period of
2 ignition interlock use imposed under section 3805 (relating
3 to ignition interlock) arising from the same incident.

4 (b) Petition.--

5 (1) An applicant for an ignition interlock limited
6 license shall file a petition with the department, by
7 certified mail, on a form prescribed by the department, and
8 shall include proof that an approved ignition interlock
9 system, as defined in section 3801, has been installed in one
10 or more motor vehicles that the applicant seeks permission to
11 operate.

12 (2) The petition shall also include proof of financial
13 responsibility covering each vehicle the applicant requests
14 to be permitted to operate. The department shall promulgate
15 regulations to require additional information as well as
16 additional evidence to verify the information contained in
17 the petition.

18 (3) The applicant shall surrender the applicant's
19 driver's license in accordance with section 1540 (relating to
20 surrender of license). If the applicant's driver's license
21 has been lost or stolen, the applicant shall submit an
22 application for a replacement license, along with the proper
23 fee. If the applicant is a nonresident licensed driver, the
24 applicant shall submit an acknowledgment of suspension in
25 lieu of a driver's license. If the applicant's license has
26 expired, the applicant shall submit an application for
27 renewal, along with the appropriate fee. All fines, costs and
28 restoration fees must be paid at the time of petition.

29 (4) Consistent with the provisions of this section, if
30 the applicant is qualified, the department shall issue an

1 ignition interlock limited license within 20 days of receipt
2 of the petition and all other requirements for issuance.

3 (c) Fee.--The application fee for an ignition interlock
4 limited license shall be \$50. This fee shall be nonrefundable.

5 (d) Unauthorized issuance.--The department shall prohibit
6 issuance of an ignition interlock limited license to:

7 (1) Any individual who is not licensed to drive by the
8 Commonwealth or any other state.

9 (2) Any individual who is required by this title to take
10 an examination and who has failed to take and pass the
11 examination.

12 (3) Any individual whose operating privilege has been
13 recalled or canceled.

14 (4) Any individual who has an unsatisfied judgment
15 against the individual as the result of a motor vehicle
16 operation, until the judgment has been satisfied under the
17 provisions of section 1774 (relating to payments sufficient
18 to satisfy judgments) or an installment agreement has been
19 entered into to satisfy the judgment, as permitted under
20 section 1772(b) (relating to suspension for nonpayment of
21 judgments) or 1775 (relating to installment payment of
22 judgments), and the financial responsibility of the person
23 has been established.

24 (5) Any individual applying for an ignition interlock
25 limited license to operate a commercial motor vehicle.

26 (6) Any individual if the department is disqualified
27 from issuing the ignition interlock limited license under the
28 Commercial Motor Vehicle Safety Act of 1986 (Title XII of
29 Public Law 99-570, 49 U.S.C. § 31302 et seq.) or the Motor
30 Carrier Safety Improvement Act of 1999 (Public Law 106-159,

1 113 Stat. 1748).

2 (7) Any individual whose operating privilege has been
3 suspended under section 1532(a.1) (relating to suspension of
4 operating privilege) for conviction or adjudication of
5 delinquency based on a violation of section 3732 (relating to
6 homicide by vehicle) or 3735 (relating to homicide by vehicle
7 while driving under influence).

8 (e) Adjudication eligibility.--An individual who has been
9 convicted of an offense under section 3802 shall be eligible to
10 apply for and, if otherwise qualified, be issued an ignition
11 interlock limited license upon conviction.

12 (f) Suspension eligibility.--The following shall apply:

13 (1) An individual whose license has been suspended under
14 section 1547(b) shall be eligible to apply for and, if
15 otherwise qualified, be issued an ignition interlock limited
16 license under this section if the individual:

17 (i) has served six months of the suspension imposed
18 under section 1547(b) (1) (i); or

19 (ii) has served nine months of the suspension
20 imposed under section 1547(b) (1) (ii).

21 (2) An individual whose license has been suspended under
22 section 3804(e) (relating to penalties) shall be eligible to
23 apply for and, if otherwise qualified, be issued an ignition
24 interlock limited license under this section if the
25 individual:

26 (i) has served three months of the suspension
27 imposed under section 3804(e) (2) (i), where the individual
28 has not had a prior offense, as defined under section
29 3806(a) (relating to prior offenses), within the past 10
30 years;

1 (ii) has served six months of the suspension imposed
2 under section 3804(e)(2)(i); or

3 (iii) has served nine months of the suspension
4 imposed under section 3804(e)(2)(ii).

5 (g) Credit against mandatory ignition interlock
6 requirement.--Any period during which an individual holds a
7 valid ignition interlock limited license under subsection (e) or
8 (f) shall count on a day-for-day basis toward the mandatory
9 period of ignition interlock usage imposed under section 3805
10 arising from the same incident.

11 (h) Certification to the department.--If an individual
12 applies for an ignition interlock limited license under this
13 section, the department shall require that one or more motor
14 vehicles owned or to be operated by the individual be equipped
15 with a functioning ignition interlock system, as defined in
16 section 3801, as a condition of issuing an ignition interlock
17 limited license with an ignition interlock restriction.

18 (i) Offenses committed during a period for which an ignition
19 interlock limited license has been issued.--If the department
20 receives a report of conviction of an offense for which the
21 penalty is a cancellation, disqualification, recall, suspension
22 or revocation of operating privileges or a report under section
23 3815(c)(4) (relating to mandatory sentencing) for any individual
24 who has been issued an ignition interlock limited license, the
25 department, at its sole discretion, shall either:

26 (1) extend the term of the ignition interlock limited
27 license for up to the original term for which the driver's
28 license was suspended or revoked; or

29 (2) recall the ignition interlock limited license, and
30 the individual shall surrender the limited license to the

1 department or its agents designated under the authority of
2 section 1540.

3 (j) Restrictions.--

4 (1) Pursuant to subsection (a) (2), an individual who has
5 been issued an ignition interlock limited license shall
6 operate only motor vehicles equipped with a functioning
7 ignition interlock system, as defined in section 3801.

8 (2) The operating privileges of an individual who has
9 been issued an ignition interlock limited license remain
10 under suspension or revocation, except when operating a motor
11 vehicle in accordance with the conditions of issuance and
12 restrictions of the ignition interlock limited license.

13 (k) Appeal from denial or recall of ignition interlock
14 limited license.--

15 (1) Any individual who is denied an ignition interlock
16 limited license or whose ignition interlock limited license
17 is extended or recalled under subsection (i) may file with
18 the department a petition for a hearing. The hearing shall be
19 conducted in accordance with 2 Pa.C.S. (relating to
20 administrative law and procedure).

21 (2) The department may charge a reasonable fee based on
22 the cost to the department for conducting the hearing.

23 (3) The appeal shall not operate as an automatic
24 supersedeas. If an administrative hearing officer orders a
25 supersedeas in any appeal, the individual shall earn no
26 credit toward serving the suspension for which the individual
27 was granted an ignition interlock limited license.

28 (4) An appeal from a decision of an administrative
29 hearing officer may be taken in the manner provided in 42
30 Pa.C.S. § 763(a) (relating to direct appeals from government

1 agencies).

2 (5) Appeals under this subsection are exempt from the
3 provisions of section 1550(b) (relating to judicial review)
4 and from the provisions of 42 Pa.C.S. § 933 (relating to
5 appeals from government agencies).

6 Section 4. Section 3805(a), (b) and (c) of Title 75 are
7 amended and the section is amended by adding a subsection to
8 read:

9 § 3805. Ignition interlock.

10 (a) General rule.--If a person violates section 3802
11 (relating to driving under influence of alcohol or controlled
12 substance) [and, within the past ten years, has a prior offense
13 as defined in section 3806(a) (relating to prior offenses)],
14 except if the individual is subject to the penalties under
15 section 3804(a) (relating to penalties), has not had a prior
16 offense, as defined under section 3806(a) (relating to prior
17 offenses), within the past 10 years, or has had their operating
18 privileges suspended pursuant to section [1547(b.1)] 1547
19 (relating to chemical testing to determine amount of alcohol or
20 controlled substance) or 3808(c) (relating to illegally
21 operating a motor vehicle not equipped with ignition interlock)
22 and the person seeks a restoration of operating privileges, the
23 department shall require as a condition of issuing a restricted
24 license pursuant to this section that the following occur:

25 (1) Each motor vehicle owned or to be operated by the
26 person [or registered to the person] has been equipped with
27 an ignition interlock system and remains so for the duration
28 of the restricted license period.

29 (2) If there are no motor vehicles owned or to be
30 operated by the person or registered to the person that the

1 person so certify to the department. [A person so certifying
2 shall be deemed to have satisfied the requirement that all
3 motor vehicles owned by the person or registered to the
4 person be equipped with an ignition interlock system as
5 required by this subsection.]

6 (b) Application for a restricted license.--A person subject
7 to this section shall apply to the department for an ignition
8 interlock restricted license under section 1951 (relating to
9 driver's license and learner's permit), which shall be clearly
10 marked to restrict the person to only driving, operating or
11 being in actual physical control of the movement of motor
12 vehicles equipped with an ignition interlock system. Upon
13 issuance of an ignition interlock restricted license to any
14 person, the department shall notify the person that until the
15 person obtains an unrestricted license the person may not [own,
16 register,] drive, operate or be in actual physical control of
17 the movement of any motor vehicle which is not equipped with an
18 ignition interlock system.

19 (c) Issuance of unrestricted license.--One year from the
20 date of issuance of an ignition interlock restricted license
21 under this section, if otherwise eligible, a person may be
22 issued a replacement license under section 1951(d) that does not
23 contain the ignition interlock system restriction. The
24 department shall not issue an unrestricted license until a
25 person has presented all of the following:

26 (1) Proof that the person has completed the ignition
27 interlock restricted license period under this section.

28 (2) Certification by the company that provided the
29 ignition interlock device that the person has complied with
30 subsection (h.2).

1 * * *

2 (h.2) Declaration of compliance.--Restrictions imposed under
3 section 1556 (relating to ignition interlock limited license)
4 shall remain in effect until the department receives a
5 declaration from the person's ignition interlock device vendor,
6 in a form provided or approved by the department, certifying
7 that the following incidents have not occurred in the two
8 consecutive months prior to the date entered on the certificate:

9 (1) An attempt to start the vehicle with a breath
10 alcohol concentration of 0.08% or more, not followed within
11 five minutes by a subsequent attempt with a breath alcohol
12 concentration lower than 0.08%.

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

14 (3) Failure of the person to appear at the ignition
15 interlock system vendor when required for maintenance,
16 repair, calibration, monitoring, inspection or replacement of
17 the device such that the ignition interlock system no longer
18 functions as required under subsection (h).

19 * * *

20 Section 5. Section 3808(c)(1) of Title 75 is amended to
21 read:

22 § 3808. Illegally operating a motor vehicle not equipped with
23 ignition interlock.

24 * * *

25 (c) Suspension of operating privilege.--Notwithstanding
26 section 3805(c) and (i):

27 (1) If a person who is required to only drive, operate
28 or be in actual physical control of the movement of a motor
29 vehicle equipped with an ignition interlock system violates
30 this section, upon receipt of a certified record of the

1 conviction, the department shall not issue a replacement
2 license to the person under section 1951(d) (relating to
3 driver's license and learner's permit) that does not contain
4 an ignition interlock restriction for a period of one year
5 from the date of conviction until the person has complied
6 with the requirements of section 3805 (relating to ignition
7 interlock).

8 * * *

9 Section 6. This act shall take effect in 15 months.