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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 290 Session of  
2015

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

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MAY 2, 2016

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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, for prior offenses and for the offense of  
9 illegally operating a motor vehicle not equipped with  
10 ignition interlock.

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

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

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

1 \* \* \*

2 "Ignition interlock limited license." A driver's license  
3 issued to an individual whose operating privilege is suspended  
4 or revoked for one or more violations of UNDER section 1547 <--  
5 (relating to chemical testing to determine amount of alcohol or  
6 controlled substance) or 3802 (relating to driving under  
7 influence of alcohol or controlled substance) OR UNDER FORMER <--  
8 SECTION 3731 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR  
9 CONTROLLED SUBSTANCE) OR A VIOLATION SUBSTANTIALLY SIMILAR TO A  
10 VIOLATION UNDER 3802 OR FORMER SECTION 3731 IN ANOTHER  
11 JURISDICTION, requiring the individual to operate only motor  
12 vehicles equipped with a functioning ignition interlock system.

13 \* \* \*

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

17 § 1547. Chemical testing to determine amount of alcohol or  
18 controlled substance.

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

28 (1) in violation of section 1543(b)(1.1) (relating to  
29 driving while operating privilege is suspended or revoked),  
30 3802 (relating to driving under influence of alcohol or

1 controlled substance) or 3808(a)(2) (relating to illegally  
2 operating a motor vehicle not equipped with ignition  
3 interlock); or

4 (2) which was involved in an accident in which the  
5 operator or passenger of any vehicle involved or a pedestrian  
6 required treatment at a medical facility or was killed.

7 \* \* \*

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

16 \* \* \*

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

28 (ii) For purposes of blood [and urine] testing to  
29 determine blood alcohol or controlled substance content  
30 levels, the procedures and equipment prescribed by the

1 Department of Health shall be reviewed within 120 days of  
2 the effective date of this subparagraph and at least  
3 every two years thereafter to ensure that consideration  
4 is given to scientific and technological advances so that  
5 testing conducted in accordance with the prescribed  
6 procedures utilizing the prescribed equipment will be as  
7 accurate and reliable as science and technology permit.

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

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

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

17 \* \* \*

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

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

24 (2) By the requesting authority, if the individual was  
25 found not guilty under section 3802 or had the charges  
26 dismissed or withdrawn.

27 (h) Test by personal physician.--The person tested shall be  
28 permitted to have a physician of his own choosing administer an  
29 additional breath[, blood or urine] or blood chemical test and  
30 the results of the test shall also be admissible in evidence.

1 The chemical testing given at the direction of the police  
2 officer shall not be delayed by a person's attempt to obtain an  
3 additional test.

4 (i) Request by driver for test.--Any person involved in an  
5 accident or placed under arrest for a violation of section  
6 1543(b)(1.1), 3802 or 3808(a)(2) may request a chemical test of  
7 his breath[, blood or urine] or blood. Such requests shall be  
8 honored when it is reasonably practicable to do so.

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

21 \* \* \*

22 § 1553. Occupational limited license.

23 (a) Issuance.--

24 (1) The department shall issue an occupational limited  
25 license under the provisions of this section to a driver  
26 whose operating privileges have been suspended for a  
27 violation of this title, except for an offense under section  
28 3802 (relating to driving under influence of alcohol or  
29 controlled substance) or under former section 3731 (relating  
30 to driving under influence of alcohol or controlled

1 substance) or for a refusal to submit to chemical testing  
2 under section 1547 (relating to chemical testing to determine  
3 amount of alcohol or controlled substance), and is not  
4 prohibited under any other provision in this section. If the  
5 underlying reason for the suspension was caused by violations  
6 committed while the driver was operating a commercial motor  
7 vehicle, the driver shall not be issued an occupational  
8 limited license for the purpose of operating a commercial  
9 motor vehicle. The department shall prohibit the issuance of  
10 an occupational limited license when disqualified from doing  
11 so under the Commercial Motor Vehicle Safety Act of 1986  
12 (Title XII of Public Law 99-570, 49 U.S.C. App. § 2701 et  
13 seq.) or the Motor Carrier Safety Improvement Act of 1999  
14 (Public Law 106-159, 113 Stat. 1748).

15 \* \* \*

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

18 \* \* \*

19 [(6) Any person who has been adjudicated delinquent,  
20 granted a consent decree or granted Accelerated  
21 Rehabilitative Disposition for driving under the influence of  
22 alcohol or controlled substance unless the suspension or  
23 revocation imposed for that conviction has been fully served.

24 (7) Any person whose operating privilege has been  
25 suspended for refusal to submit to chemical testing to  
26 determine the amount of alcohol or controlled substance  
27 unless that suspension has been fully served.

28 (8) Except as set forth in subsections (d.1) and (d.2),  
29 any person who has been convicted of driving under the  
30 influence of alcohol or controlled substance and whose

1 license has been suspended by the department unless the  
2 suspension imposed has been fully 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.

11 (d.2) Suspension eligibility.--

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

18 (i) is otherwise eligible for restoration;

19 (ii) has served 12 months of the suspension imposed  
20 for the offense;

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

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

26 (v) has certified to the department under paragraph  
27 (3).

28 (2) A period of ignition interlock accepted under this  
29 subsection shall not count towards the one-year mandatory  
30 period of ignition interlock imposed under section 3805

1 (relating to ignition interlock).

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

8 \* \* \*

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

10 § 1556. Ignition interlock limited license.

11 (a) Issuance.--

12 (1) The department shall issue an ignition interlock  
13 limited license under this section to an individual whose  
14 operating privileges have been suspended OR REVOKED for: <--

15 (i) a violation under section 3802 (relating to  
16 driving under influence of alcohol or controlled  
17 substance) or under former section 3731 (relating to  
18 driving under influence of alcohol or controlled  
19 substance) OR A VIOLATION SUBSTANTIALLY SIMILAR TO A <--  
20 VIOLATION UNDER THIS PARAGRAPH IN ANOTHER JURISDICTION;  
21 or

22 (ii) a refusal to submit to chemical testing under  
23 section 1547 (relating to chemical testing to determine  
24 amount of alcohol or controlled substance).

25 (2) The department shall issue an ignition interlock  
26 limited license under the provisions of this section only  
27 upon receiving proof that ~~one motor vehicle owned, leased or~~ <--  
28 ~~principally operated by the person, whichever the person most~~  
29 ~~often operates,~~ ANY MOTOR VEHICLE TO BE OPERATED BY THE <--  
30 INDIVIDUAL has been equipped with an approved ignition



1 interlock system as defined in section 3801 (relating to  
2 definitions) as a condition of issuing an ignition interlock  
3 limited license. ANY VEHICLE TO BE OPERATED BY THE <--  
4 INDIVIDUAL, DURING ANY PERIOD IN WHICH THE INDIVIDUAL HOLDS A  
5 VALID IGNITION INTERLOCK LIMITED LICENSE, MUST BE EQUIPPED  
6 WITH AN IGNITION INTERLOCK SYSTEM.

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

11 (4) Any period in which an individual holds a valid  
12 ignition interlock limited license under this section shall  
13 be counted toward satisfaction of any mandatory period of  
14 ignition interlock use imposed under section 3805 (relating  
15 to ignition interlock) arising from the same incident.

16 (b) Petition.--

17 (1) An applicant for an ignition interlock limited  
18 license shall file a petition with the department, by  
19 certified mail, on a form prescribed by the department, and  
20 shall include proof that an approved ignition interlock  
21 system, as defined in section 3801, has been installed in one  
22 or more motor vehicles that the applicant seeks permission to  
23 operate.

24 (2) The petition shall also include proof of financial  
25 responsibility covering each vehicle the applicant requests  
26 to be permitted to operate. The department shall promulgate  
27 regulations to require additional information as well as  
28 additional evidence to verify the information contained in  
29 the petition.

30 (3) The applicant shall surrender the applicant's

1 driver's license in accordance with section 1540 (relating to  
2 surrender of license). If the applicant's driver's license  
3 has been lost or stolen, the applicant shall submit an  
4 application for a replacement license, along with the proper  
5 fee. If the applicant is a nonresident licensed driver, the  
6 applicant shall submit an acknowledgment of suspension in  
7 lieu of a driver's license. If the applicant's license has  
8 expired, the applicant shall submit an application for  
9 renewal, along with the appropriate fee. All fines, costs and  
10 restoration fees must be paid at the time of petition.

11 (4) Consistent with the provisions of this section, if  
12 the applicant is qualified, the department shall issue an  
13 ignition interlock limited license within 20 days of receipt  
14 of the petition and all other requirements for issuance.

15 (c) Fee.--The application fee for an ignition interlock  
16 limited license shall be \$65. This fee shall be nonrefundable.

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

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

21 (2) Any individual who is required by this title to take  
22 an examination and who has failed to take and pass the  
23 examination.

24 (3) Any individual whose operating privilege has been  
25 recalled or canceled.

26 (4) Any individual who has an unsatisfied judgment  
27 against the individual as the result of a motor vehicle  
28 operation, until the judgment has been satisfied under the  
29 provisions of section 1774 (relating to payments sufficient  
30 to satisfy judgments) or an installment agreement has been

1 entered into to satisfy the judgment, as permitted under  
2 section 1772(b) (relating to suspension for nonpayment of  
3 judgments) or 1775 (relating to installment payment of  
4 judgments), and the financial responsibility of the person  
5 has been established.

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

8 (6) Any individual if the department is disqualified  
9 from issuing the ignition interlock limited license under the  
10 Commercial Motor Vehicle Safety Act of 1986 (Title XII of  
11 Public Law 99-570, 49 U.S.C. § 31302 et seq.) or the Motor  
12 Carrier Safety Improvement Act of 1999 (Public Law 106-159,  
13 113 Stat. 1748).

14 (7) Any individual whose operating privilege has been  
15 suspended under section 1532(a.1) (relating to suspension of  
16 operating privilege) for conviction or adjudication of  
17 delinquency based on a violation of section 3732 (relating to  
18 homicide by vehicle) or 3735 (relating to homicide by vehicle  
19 while driving under influence).

20 (e) Adjudication eligibility.--An individual whose operating  
21 privilege has been suspended OR REVOKED for a conviction of an <--  
22 offense under section 3802 OR UNDER FORMER SECTION 3731 OR AN <--  
23 OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER SECTION 3802  
24 OR FORMER SECTION 3731 IN ANOTHER JURISDICTION shall be eligible  
25 to apply for and, if otherwise qualified, be issued an ignition  
26 interlock limited license upon receipt of notice of the  
27 suspension OR REVOCATION. <--

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

29 (1) An individual whose license has been suspended under  
30 section 1547(b) shall be eligible to apply for and, if

1 otherwise qualified, be issued an ignition interlock limited  
2 license under this section if the individual:

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

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

7 (2) An individual whose license has been suspended under  
8 section 3804(e) (relating to penalties) shall be eligible to  
9 apply for and, if otherwise qualified, be issued an ignition  
10 interlock limited license under this section if the  
11 individual:

12 (i) has not had a prior offense, as defined under  
13 section ~~3806(a)~~ 3806 (relating to prior offenses), ~~within~~ <--  
14 the past 10 years. The individual shall be immediately  
15 eligible for a suspension imposed under section 3804(e)  
16 (2)(i);

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

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

21 (g) ~~Credit against mandatory ignition interlock~~ <--  
22 ~~requirement. Any period during which an individual holds a~~  
23 ~~valid ignition interlock limited license under subsection (e) or~~  
24 ~~(f) shall be counted toward satisfaction of DURATION.--AN~~ <--  
25 INDIVIDUAL MAY HOLD A VALID IGNITION INTERLOCK LIMITED LICENSE  
26 UNDER THIS SECTION FOR THE DURATION OF THE mandatory period of  
27 ignition interlock usage imposed under section 3805 arising from  
28 the same incident.

29 ~~(h) Certification to the department. If an individual~~ <--  
30 ~~applies for an ignition interlock limited license under this~~

~~1 section, the department shall require that one motor vehicle  
2 owned, leased or principally operated by the person, whichever  
3 the person most often operates, be equipped with a functioning  
4 ignition interlock system, as defined in section 3801, as a  
5 condition of issuing an ignition interlock limited license with  
6 an ignition interlock restriction.~~

7 (H) REQUIRED PROOF.--THE DEPARTMENT SHALL ISSUE AN IGNITION <--  
8 INTERLOCK LIMITED LICENSE UNDER THE PROVISIONS OF THIS SECTION  
9 ONLY UPON RECEIVING PROOF THAT ANY MOTOR VEHICLE TO BE OPERATED  
10 BY THE INDIVIDUAL HAS BEEN EQUIPPED WITH AN APPROVED IGNITION  
11 INTERLOCK SYSTEM AS DEFINED IN SECTION 3801 AS A CONDITION OF  
12 ISSUING AN IGNITION INTERLOCK LIMITED LICENSE. ANY VEHICLE TO BE  
13 OPERATED BY THE INDIVIDUAL, DURING ANY PERIOD IN WHICH THE  
14 INDIVIDUAL HOLDS A VALID IGNITION INTERLOCK LIMITED LICENSE,  
15 MUST BE EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

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

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

27 (2) recall the ignition interlock limited license, and  
28 the individual shall surrender the limited license to the  
29 department or its agents designated under the authority of  
30 section 1540.

1 (j) Restrictions.--

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

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

11 (K) EMPLOYMENT EXEMPTION.--IF A PERSON WITH AN IGNITION <--  
12 INTERLOCK LIMITED LICENSE IS REQUIRED IN THE COURSE AND SCOPE OF  
13 EMPLOYMENT TO DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF  
14 THE MOVEMENT OF A MOTOR VEHICLE OWNED BY THE PERSON'S EMPLOYER,  
15 THE FOLLOWING APPLY:

16 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PERSON MAY  
17 DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE  
18 MOVEMENT OF THAT MOTOR VEHICLE IN THE COURSE AND SCOPE OF  
19 EMPLOYMENT WITHOUT INSTALLATION OF AN IGNITION INTERLOCK  
20 SYSTEM IF:

21 (I) THE EMPLOYER HAS BEEN NOTIFIED THAT THE EMPLOYEE  
22 IS RESTRICTED; AND

23 (II) THE EMPLOYEE HAS PROOF OF THE NOTIFICATION IN  
24 THE EMPLOYEE'S POSSESSION WHILE DRIVING, OPERATING OR  
25 BEING IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF THE  
26 EMPLOYER'S MOTOR VEHICLE. PROOF OF THE NOTIFICATION MAY  
27 BE ESTABLISHED ONLY BY THE NOTARIZED SIGNATURE OF THE  
28 EMPLOYER ACKNOWLEDGING NOTIFICATION ON A FORM WHICH SHALL  
29 BE PROVIDED BY THE DEPARTMENT FOR THIS PURPOSE AND SHALL  
30 INCLUDE A CONTACT TELEPHONE NUMBER OF THE EMPLOYER.

1           (2) PARAGRAPH (1) DOES NOT APPLY IN ANY OF THE FOLLOWING  
2 CIRCUMSTANCES:

3           (I) TO THE EXTENT THAT AN EMPLOYER-OWNED MOTOR  
4 VEHICLE IS MADE AVAILABLE TO THE EMPLOYEE FOR PERSONAL  
5 USE.

6           (II) IF THE EMPLOYER-OWNED MOTOR VEHICLE IS OWNED BY  
7 AN ENTITY WHICH IS WHOLLY OR PARTIALLY OWNED OR  
8 CONTROLLED BY THE PERSON SUBJECT TO THIS SECTION.

9           (III) IF THE EMPLOYER-OWNED MOTOR VEHICLE IS A  
10 SCHOOL BUS, A SCHOOL VEHICLE OR A VEHICLE DESIGNED TO  
11 TRANSPORT MORE THAN 15 PASSENGERS, INCLUDING THE DRIVER.

12 ~~(k)~~ (L) Appeal from denial or recall of ignition interlock <--  
13 limited license.--

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

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

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

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

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

5       Section 4. Section 3805(a), (b)~~and (c)~~, (C) AND (F) (2) (II) <--  
6 of Title 75 are amended and the section is amended by adding a  
7 subsection to read:

8 § 3805. Ignition interlock.

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

25           (1) [Each motor vehicle owned by the person or  
26 registered to the person] ~~One motor vehicle owned, leased or~~ <--  
27 ~~principally operated by the person, whichever the person most~~  
28 ~~often operates,~~ ANY MOTOR VEHICLE TO BE OPERATED BY THE <--  
29 INDIVIDUAL has been equipped with an ignition interlock  
30 system and remains so for the duration of the restricted



1 license period.

2 (2) If there are no motor vehicles owned or to be  
3 operated by the person or registered to the person that the  
4 person so certify to the department IN ACCORDANCE WITH THE <--  
5 DEPARTMENT'S REGULATIONS. [A person so certifying shall be  
6 deemed to have satisfied the requirement that all motor  
7 vehicles owned by the person or registered to the person be  
8 equipped with an ignition interlock system as required by  
9 this subsection.]

10 (A.1) EXCEPTION.--SUBSECTION (A) SHALL NOT APPLY TO AN <--  
11 INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING:

12 (1) IS SUBJECT TO THE PENALTIES UNDER SECTION 3804(A)(1)  
13 (RELATING TO PENALTIES).

14 (2) HAS NOT HAD A PRIOR OFFENSE, AS DEFINED UNDER  
15 SECTION 3806 (RELATING TO PRIOR OFFENSES).

16 (b) Application for a restricted license.--A person subject  
17 to this section shall apply to the department for an ignition  
18 interlock restricted license under section 1951 (relating to  
19 driver's license and learner's permit), which shall be clearly  
20 marked to restrict the person to only driving, operating or  
21 being in actual physical control of the movement of motor  
22 vehicles equipped with an ignition interlock system. Upon  
23 issuance of an ignition interlock restricted license to any  
24 person, the department shall notify the person that until the  
25 person obtains an unrestricted license the person may not [own,  
26 register,] drive, operate or be in actual physical control of  
27 the movement of any motor vehicle which is not equipped with an  
28 ignition interlock system.

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

1 under this section, if otherwise eligible, a person may be  
2 issued a replacement license under section 1951(d) that does not  
3 contain the ignition interlock system restriction. The  
4 department shall not issue an unrestricted license until a  
5 person has presented all of the following:

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

8 (2) Certification by the ~~company~~ VENDOR that provided <--  
9 the ignition interlock device that the person has complied  
10 with subsection (h.2).

11 \* \* \*

12 (F) EMPLOYMENT EXEMPTION.--IF A PERSON WITH A RESTRICTED <--  
13 LICENSE IS REQUIRED IN THE COURSE AND SCOPE OF EMPLOYMENT TO  
14 DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT  
15 OF A MOTOR VEHICLE OWNED BY THE PERSON'S EMPLOYER, THE FOLLOWING  
16 APPLY:

17 \* \* \*

18 (2) PARAGRAPH (1) DOES NOT APPLY IN ANY OF THE FOLLOWING  
19 CIRCUMSTANCES:

20 \* \* \*

21 (II) IF THE EMPLOYER-OWNED MOTOR VEHICLE IS OWNED BY  
22 AN ENTITY WHICH IS WHOLLY OR PARTIALLY OWNED OR  
23 CONTROLLED BY THE PERSON SUBJECT TO THIS SECTION.

24 \* \* \*

25 (h.2) Declaration of compliance.--Restrictions imposed under  
26 section 1556 (relating to ignition interlock limited license)  
27 shall remain in effect until the department receives a  
28 declaration from the person's ignition interlock device vendor,  
29 in a form provided or approved by the department, certifying  
30 that the following incidents have not occurred in the two

1 consecutive months prior to the date entered on the certificate:

2 (1) An attempt to start the vehicle with a breath  
3 alcohol concentration of 0.08% or more, not followed within  
4 five minutes by a subsequent attempt with a breath alcohol  
5 concentration lower than 0.08%.

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

7 (3) Failure of the person to appear at the ignition  
8 interlock system vendor when required for maintenance,  
9 repair, calibration, monitoring, inspection or replacement of  
10 the device such that the ignition interlock system no longer  
11 functions as required under subsection (h).

12 \* \* \*

13 Section 5. Section 3806 of Title 75 is amended to read:

14 § 3806. Prior offenses.

15 (a) General rule.--Except as set forth in subsection (b),  
16 the term "prior offense" as used in this chapter shall mean [a]  
17 any conviction for which judgment of a sentence has been <--  
18 imposed, adjudication of delinquency, juvenile consent decree,  
19 acceptance of Accelerated Rehabilitative Disposition or other  
20 form of preliminary disposition before the sentencing on the  
21 present violation for any of the following:

22 (1) an offense under section 3802 (relating to driving  
23 under influence of alcohol or controlled substance);

24 (2) an offense under former section 3731;

25 (3) an offense substantially similar to an offense under  
26 paragraph (1) or (2) in another jurisdiction; or

27 (4) any combination of the offenses set forth in  
28 paragraph (1), (2) or (3).

29 (b) [Repeat offenses within ten years] Timing.--[The  
30 calculation of prior offenses for purposes of sections 1553(d.2)

1 (relating to occupational limited license), 3803 (relating to  
2 grading) and 3804 (relating to penalties) shall include any  
3 conviction, whether or not judgment of sentence has been imposed  
4 for the violation, adjudication of delinquency, juvenile consent  
5 decree, acceptance of Accelerated Rehabilitative Disposition or  
6 other form of preliminary disposition within the ten years  
7 before the sentencing on the present violation for any of the  
8 following:

- 9 (1) an offense under section 3802;
- 10 (2) an offense under former section 3731;
- 11 (3) an offense substantially similar to an offense under  
12 paragraph (1) or (2) in another jurisdiction; or
- 13 (4) any combination of the offenses set forth in  
14 paragraph (1), (2) or (3).]

15 (1) For purposes of sections ~~1553(d.2) (relating to~~ <--  
16 ~~occupational limited license)~~ 1553(D.2) (RELATING TO <--  
17 OCCUPATIONAL LIMITED LICENSE), 1556 (RELATING TO IGNITION <--  
18 INTERLOCK LIMITED LICENSE), 3803 (relating to grading) and, <--  
19 3804 (relating to penalties) AND 3805 (RELATING TO IGNITION <--  
20 INTERLOCK), the prior offense must have occurred:

21 (i) within 10 years prior to the date of the offense  
22 for which the defendant is being sentenced; or

23 (ii) on or after the date of the offense for which  
24 the defendant is being sentenced.

25 (2) The court shall calculate the number of prior  
26 offenses, if any, at the time of sentencing.

27 (3) If the defendant is sentenced for two or more  
28 offenses in the same day, the offenses shall be considered  
29 prior offenses within the meaning of this subsection.

30 Section 6. Section 3808(a), (B) and (c)(1) of Title 75 are <--

1 amended to read:

2 § 3808. Illegally operating a motor vehicle not equipped with  
3 ignition interlock.

4 (a) Offense defined.--

5 (1) An individual required to only drive, operate or be  
6 in actual physical control of the movement of a motor vehicle  
7 equipped with an ignition interlock system under [section  
8 1553(d.2) (relating to occupational limited license)] ~~section~~ <--  
9 ~~1556 (relating to ignition interlock limited license)~~ or 3805  
10 (relating to ignition interlock)] ANY OF THE FOLLOWING who <--  
11 drives, operates or is in actual physical control of the  
12 movement of a motor vehicle within this Commonwealth without  
13 such a system commits a misdemeanor and shall, upon  
14 conviction, be sentenced to pay a fine of not less than \$300  
15 and not more than \$1,000 and to imprisonment for not more  
16 than 90 days[.]: <--

17 (I) SECTION 1556 (RELATING TO IGNITION INTERLOCK  
18 LIMITED LICENSE).

19 (II) SECTION 3805 (RELATING TO IGNITION INTERLOCK).

20 (III) A REQUIREMENT BY ANOTHER JURISDICTION TO  
21 OPERATE ONLY A VEHICLE WITH AN IGNITION INTERLOCK SYSTEM.

22 (2) An individual required to only drive, operate or be  
23 in actual physical control of the movement of a motor vehicle  
24 equipped with an ignition interlock system under [section  
25 1553(d.2)] ~~section 1556~~ or 3805] ANY OF THE FOLLOWING who <--  
26 drives, operates or is in actual physical control of the  
27 movement of a motor vehicle within this Commonwealth without  
28 such a system and who has an amount of alcohol by weight in  
29 his blood that is equal to or greater than 0.025% at the time  
30 of testing or who has in his blood any amount of a Schedule I

1 or nonprescribed Schedule II or III controlled substance, as  
2 defined in the act of April 14, 1972 (P.L.233, No.64), known  
3 as The Controlled Substance, Drug, Device and Cosmetic Act,  
4 or its metabolite commits a misdemeanor of the third degree  
5 and shall, upon conviction, be sentenced to pay a fine of  
6 \$1,000 and to undergo imprisonment for a period of not less  
7 than 90 days[.]: <--

8 (I) SECTION 1556.

9 (II) SECTION 3805.

10 (III) A REQUIREMENT BY ANOTHER JURISDICTION TO  
11 OPERATE ONLY A VEHICLE WITH AN IGNITION INTERLOCK SYSTEM.

12 \* \* \*

13 (B) TAMPERING WITH AN IGNITION INTERLOCK SYSTEM.--A PERSON <--  
14 THAT TAMPERS WITH AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW <--  
15 COMMITS A MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED  
16 TO PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN \$1,000 AND TO  
17 UNDERGO IMPRISONMENT FOR NOT MORE THAN 90 DAYS. AN OFFENSE UNDER  
18 THIS SUBSECTION SHALL BE DEEMED TO HAVE BEEN COMMITTED AT EITHER  
19 THE LOCATION WHERE TAMPERING OCCURRED OR THE PLACE WHERE THE  
20 VEHICLE CONTAINING THE IGNITION INTERLOCK SYSTEM REQUIRED BY LAW  
21 IS REGISTERED. THE TERM "TAMPERING," IN ADDITION TO ANY PHYSICAL  
22 ACT WHICH IS INTENDED TO ALTER OR INTERFERE WITH THE PROPER  
23 FUNCTIONING OF AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW,  
24 SHALL INCLUDE ATTEMPTING TO CIRCUMVENT OR BYPASS OR  
25 CIRCUMVENTING OR BYPASSING AN IGNITION INTERLOCK SYSTEM BY:

26 (1) MEANS OF USING ANOTHER INDIVIDUAL TO PROVIDE A  
27 BREATH SAMPLE; OR

28 (2) PROVIDING A BREATH SAMPLE FOR THE PURPOSE OF  
29 BYPASSING AN IGNITION INTERLOCK SYSTEM REQUIRED BY LAW.

30 (c) Suspension of operating privilege.--Notwithstanding

1 section 3805(c) and (i):

2 (1) If a person who is required to only drive, operate  
3 or be in actual physical control of the movement of a motor  
4 vehicle equipped with an ignition interlock system violates  
5 this section, upon receipt of a certified record of the  
6 conviction, the department shall not issue a replacement  
7 license to the person under section 1951(d) (relating to  
8 driver's license and learner's permit) that does not contain  
9 an ignition interlock restriction for a period of one year  
10 from the date of conviction until the person has complied  
11 with the requirements of section 3805 (relating to ignition  
12 interlock).

13 \* \* \*

14 Section 7. This act shall take effect as follows:

15 (1) The amendment of 75 Pa.C.S. §§ 1547(a), (c)  
16 introductory paragraph, (2) and (3), (g.1), (h), (i) and (j)  
17 and 3806 shall take effect immediately.

18 (2) This section shall take effect immediately.

19 (3) The remainder of this act shall take effect in 15  
20 months.