

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 928 Session of 2017

INTRODUCED BY JOZWIAK, COX, JAMES, SCHLOSSBERG, McNEILL, SCHWEYER, IRVIN, REESE, O'BRIEN, J. HARRIS, MULLERY, A. HARRIS, DeLUCA, D. COSTA, NEILSON, RYAN, RADER, GILLEN, GAINEY, KORTZ, ROZZI, BRIGGS, DEAN, KAUFER, TAYLOR, CALTAGIRONE, RAVENSTAHL, FRANKEL, TOBASH, STEPHENS AND A. DAVIS, MARCH 22, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 9, 2018

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 prohibited acts and penalties.

12 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
13 Statutes, in licensing of drivers, further providing for
14 suspension of operating privilege.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 13(g) of the act of April 14, 1972
18 (P.L.233, No.64), known as The Controlled Substance, Drug,
19 Device and Cosmetic Act, is amended to read:

20 ~~Section 13. Prohibited Acts; Penalties. * * *~~

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21 ~~(g) Any person who violates clause (31) of subsection (a)~~

1 ~~[is guilty of a misdemeanor and upon conviction thereof shall be~~
2 ~~sentenced to imprisonment not exceeding thirty days, or to pay a~~
3 ~~fine not exceeding five hundred dollars (\$500), or both.]:~~

4 ~~(1) For a first or second offense, commits a summary offense~~
5 ~~and shall, upon conviction, pay a fine of not more than three~~
6 ~~hundred dollars (\$300).~~

7 ~~(2) For a third or subsequent offense, commits a misdemeanor~~
8 ~~of the third degree and shall, upon conviction, pay a fine of~~
9 ~~not more than one thousand dollars (\$1,000).~~

10 * * *

11 SECTION 13. PROHIBITED ACTS; PENALTIES.--* * *

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12 (G) [ANY] THE FOLLOWING SHALL APPLY:

13 (1) EXCEPT AS PROVIDED UNDER CLAUSE (2), A PERSON WHO
14 VIOLATES CLAUSE (31) OF SUBSECTION (A):

15 (I) FOR A FIRST OR SECOND OFFENSE, IS GUILTY OF A SUMMARY
16 OFFENSE AND UPON CONVICTION THEREOF SHALL ONLY PAY A FINE NOT
17 EXCEEDING THREE HUNDRED DOLLARS (\$300).

18 (II) FOR A THIRD OR SUBSEQUENT OFFENSE, IS GUILTY OF A
19 MISDEMEANOR OF THE THIRD DEGREE AND UPON CONVICTION THEREOF
20 SHALL ONLY PAY A FINE NOT EXCEEDING ONE THOUSAND DOLLARS
21 (\$1,000).

22 (2) A PERSON WHO VIOLATES CLAUSE (31) OF SUBSECTION (A) AS
23 FOLLOWS IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF
24 SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING THIRTY DAYS, OR
25 TO PAY A FINE NOT EXCEEDING FIVE HUNDRED DOLLARS (\$500), OR
26 BOTH[.]:

27 (I) WHO IS UNDER EIGHTEEN (18) YEARS OF AGE;

28 (II) WHILE IN A MOTOR VEHICLE; OR

29 (III) WHILE IN A BUILDING OF, ON THE GROUNDS OF, OR IN A
30 CONVEYANCE PROVIDING TRANSPORTATION TO OR FROM AN ELEMENTARY OR

1 SECONDARY PUBLICLY FUNDED EDUCATIONAL INSTITUTION, AN ELEMENTARY
2 OR SECONDARY PRIVATE SCHOOL LICENSED BY THE DEPARTMENT OF
3 EDUCATION OR ANY ELEMENTARY OR SECONDARY PAROCHIAL SCHOOL.

4 (3) THE JUDICIAL AUTHORITY WITH JURISDICTION OVER THE
5 VIOLATION BY A PERSON UNDER EIGHTEEN (18) YEARS OF AGE SHALL
6 GIVE FIRST CONSIDERATION TO REFERRING THE PERSON TO A
7 DIVERSIONARY PROGRAM UNDER 42 PA.C.S. § 1520 (RELATING TO
8 ADJUDICATION ALTERNATIVE PROGRAM) AND THE PENNSYLVANIA RULES OF
9 CRIMINAL PROCEDURE. AS PART OF THE DIVERSIONARY PROGRAM, THE
10 JUDICIAL AUTHORITY WITH JURISDICTION OVER THE VIOLATION MAY
11 ORDER THE PERSON TO PARTICIPATE IN AN EDUCATIONAL PROGRAM. IF
12 THE PERSON SUCCESSFULLY COMPLETES THE DIVERSIONARY PROGRAM, THE
13 PERSON'S RECORDS OF THE CHARGE OF VIOLATING CLAUSE (2) SHALL BE
14 EXPUNGED AS PROVIDED FOR UNDER PA.R.C.P. NO.320 (RELATING TO
15 EXPUNGEMENT UPON SUCCESSFUL COMPLETION OF ARD PROGRAM).

16 * * *

17 Section 2. Section 1532(c) of Title 75 of the Pennsylvania
18 Consolidated Statutes is amended to read:

19 § 1532. Suspension of operating privilege.

20 * * *

21 (c) Suspension.--The department shall suspend the operating
22 privilege of any person upon receiving a certified record of the
23 person's conviction of any offense involving the possession,
24 sale, delivery, offering for sale, holding for sale or giving
25 away of any controlled substance under the laws of the United
26 States, this Commonwealth or any other state, or any person 21
27 years of age or younger upon receiving a certified record of the
28 person's conviction or adjudication of delinquency under 18
29 Pa.C.S. § 2706 (relating to terroristic threats) committed on
30 any school property, including any public school grounds, during

1 any school-sponsored activity or on any conveyance providing
2 transportation to a school entity or school-sponsored activity.

3 (1) [The] Except as provided under paragraph (1.1), the
4 period of suspension shall be as follows:

5 (i) For a first offense, a period of six months from
6 the date of the suspension.

7 (ii) For a second offense, a period of one year from
8 the date of the suspension.

9 (iii) For a third and any subsequent offense
10 thereafter, a period of two years from the date of the
11 suspension.

12 (1.1) For a third and any subsequent violation of
13 section 13(a)(31) of the act of April 14, 1972 (P.L.233,
14 No.64), known as The Controlled Substance, Drug, Device and
15 Cosmetic Act, a period of six months from the date of
16 suspension.

17 (2) For the purposes of this subsection, the term
18 "conviction" shall include any conviction or adjudication of
19 delinquency for any of the offenses listed in paragraph (1),
20 whether in this Commonwealth or any other Federal or state
21 court.

22 * * *

23 Section 3. This act shall take effect in 60 days.