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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 553 Session of  
2017

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INTRODUCED BY RAFFERTY, MARCH 24, 2017

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REFERRED TO TRANSPORTATION, MARCH 24, 2017

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AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, in licensing of drivers, further providing for  
3 chemical testing to determine amount of alcohol or controlled  
4 substance; and, in driving after imbibing alcohol or  
5 utilizing drugs, further providing for penalties and for  
6 ignition interlock.

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

9 Section 1. Section 1547(a), (b) and (b.1) of Title 75 of the  
10 Pennsylvania Consolidated Statutes, amended May 25, 2016  
11 (P.L.236, No.33), is amended and the section is amended by  
12 adding subsections to read:

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

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

1 to believe the person to have been driving, operating or in  
2 actual physical control of the movement of a vehicle[:

3 (1)] in violation of section 1543(b)(1.1) (relating to  
4 driving while operating privilege is suspended or revoked),  
5 3802 (relating to driving under influence of alcohol or  
6 controlled substance) or 3808(a)(2) (relating to illegally  
7 operating a motor vehicle not equipped with ignition  
8 interlock)[; or

9 (2) which was involved in an accident in which the  
10 operator or passenger of any vehicle involved or a pedestrian  
11 required treatment at a medical facility or was killed].

12 (b) [Suspension] Civil penalties for refusal.--

13 (1) If any person placed under arrest for a violation of  
14 section 3802 is requested to submit to chemical testing and  
15 refuses to do so, the testing shall not be conducted but upon  
16 notice by the police officer, the department shall suspend  
17 the operating privilege of the person as follows:

18 (i) Except as set forth in subparagraph (ii), for a  
19 period of 12 months.

20 (ii) For a period of 18 months if any of the  
21 following apply:

22 (A) The person's operating privileges have  
23 previously been suspended under this subsection.

24 (B) The person has, prior to the refusal under  
25 this paragraph, been sentenced for:

26 (I) an offense under section 3802;

27 (II) an offense under former section 3731;

28 (III) an offense equivalent to an offense  
29 under subclause (I) or (II); or

30 (IV) a combination of the offenses set forth

1 in this clause.

2 (2) It shall be the duty of the police officer to inform  
3 the person that:

4 (i) the person's operating privilege will be  
5 suspended upon refusal to submit to chemical testing and  
6 the person will be fined up to \$2,000; and

7 (ii) if the person refuses to submit to chemical  
8 breath testing, upon conviction or plea for violating  
9 section 3802(a)(1), the person will be subject to the  
10 penalties provided in section 3804(c) (relating to  
11 penalties).

12 (3) Any person whose operating privilege is suspended  
13 under the provisions of this section shall have the same  
14 right of appeal as provided for in cases of suspension for  
15 other reasons.

16 (b.1) Other [suspension] civil penalties for refusal.--

17 (1) If any person placed under arrest for a violation of  
18 section 1543(b)(1.1) or 3808(a)(2) is requested to submit to  
19 chemical testing and refuses to do so, the testing shall not  
20 be conducted; but, upon notice by the police officer and  
21 provided no suspension is imposed pursuant to subsection (b),  
22 the department shall suspend the operating privilege of the  
23 person for a period of six months.

24 (2) It shall be the duty of the police officer to inform  
25 the person that the person's operating privileges will be  
26 suspended upon refusal to submit to chemical testing and the  
27 person will be fined up to \$2,000.

28 (3) Notwithstanding section 3805(c) (relating to  
29 ignition interlock), if any person receives a suspension  
30 pursuant to this subsection who at the time of the offense

1 was required to comply with the provisions of section 3805  
2 prior to obtaining a replacement license under section  
3 1951(d) (relating to driver's license and learner's license)  
4 that does not contain an ignition interlock restriction, the  
5 suspension imposed pursuant to this subsection shall result  
6 in the recall of any ignition interlock restricted license  
7 previously issued and the driver shall surrender the ignition  
8 interlock restricted license to the department or its agents  
9 designated under the authority of section 1540 (relating to  
10 surrender of licenses) and, prior to the issuance of a  
11 replacement license under section 1951(d) that does not  
12 contain an ignition interlock restriction, the department  
13 shall require that the person comply with the provisions of  
14 section 3805.

15 (b.2) Fines.--

16 (1) A person whose operating privilege has been  
17 suspended in accordance with subsection (b) or (b.1) shall:

18 (i) Except as provided in subparagraph (ii) or  
19 (iii), pay a fine of \$500.

20 (ii) If the department has previously suspended the  
21 person's operating privilege under this section on one  
22 other occasion, pay a fine of \$1,000.

23 (iii) If the department has previously suspended the  
24 person's operating privilege under this section on two or  
25 more occasions, pay a fine of \$2,000.

26 (2) All fines imposed under this section must be paid  
27 prior to the reinstatement of an individual's operating  
28 privilege.

29 (b.3) Limitation.--Nothing in this section shall be  
30 construed as limiting the ability of law enforcement to obtain

1 chemical testing pursuant to a valid search warrant, court order  
2 or any other basis permissible by the Constitution of the United  
3 States and the Constitution of Pennsylvania.

4 \* \* \*

5 Section 2. Section 3804(c) of Title 75 is amended to read:

6 § 3804. Penalties.

7 \* \* \*

8 (c) Incapacity; highest blood alcohol; controlled  
9 substances.--An individual who violates section 3802(a)(1) and  
10 refused testing of [blood or] breath under section 1547  
11 (relating to chemical testing to determine amount of alcohol or  
12 controlled substance) or testing of blood pursuant to a valid  
13 search warrant or an individual who violates section 3802(c) or  
14 (d) shall be sentenced as follows:

15 (1) For a first offense, to:

16 (i) undergo imprisonment of not less than 72  
17 consecutive hours;

18 (ii) pay a fine of not less than \$1,000 nor more  
19 than \$5,000;

20 (iii) attend an alcohol highway safety school  
21 approved by the department; and

22 (iv) comply with all drug and alcohol treatment  
23 requirements imposed under sections 3814 and 3815.

24 (2) For a second offense, to:

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

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

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

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

1           (3) For a third or subsequent offense, to:  
2           (i) undergo imprisonment of not less than one year;  
3           (ii) pay a fine of not less than \$2,500; and  
4           (iii) comply with all drug and alcohol treatment  
5 requirements imposed under sections 3814 and 3815.

6 \* \* \*

7 Section 3. Section 3805(a.1) of Title 75, added May 25, 2016  
8 (P.L.236, No.33), is amended to read:

9 § 3805. Ignition interlock.

10 \* \* \*

11 (a.1) Exception.--Subsection (a) shall not apply to an  
12 individual who meets all of the following:

13 (1) Is subject to the penalties under section 3804(a)(1)  
14 (relating to penalties)[.] or subject to mandatory suspension  
15 of operating privilege under section 3807(d) (relating to  
16 Accelerated Rehabilitative Disposition).

17 (2) Has not had a prior offense, as defined under  
18 section 3806 (relating to prior offenses).

19 \* \* \*

20 Section 2. This act shall take effect immediately.