

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 553 Session of 2017

INTRODUCED BY RAFFERTY, MARCH 24, 2017

AS AMENDED ON THIRD CONSIDERATION, JUNE 14, 2017

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in licensing of drivers, further providing for
3 surrender of license, for period of disqualification,
4 revocation or suspension of operating privilege, for driving
5 while operating privilege is suspended or revoked, for
6 chemical testing to determine amount of alcohol or controlled
7 substance and for probationary license; in driving after
8 imbibing alcohol or utilizing drugs, further providing for
9 penalties, for ignition interlock and for illegally operating
10 a motor vehicle not equipped with ignition interlock; and, in
11 penalties and dispositions of fines, further providing for
12 habitual offenders.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 1540 and 1541(a) and (e) of Title 75 of
16 the Pennsylvania Consolidated Statutes are amended to read:

17 § 1540. Surrender of license.

18 (a) [Conviction of offense.--Upon a conviction by a court of
19 competent jurisdiction for any offense which calls for mandatory
20 suspension in accordance with section 1532 (relating to
21 suspension of operating privilege), the court or the district
22 attorney shall require the surrender of any driver's license
23 then held by the defendant and shall forward the driver's

1 license together with a record of the conviction to the
2 department. The suspension shall be effective upon a date
3 determined by the court or district attorney or upon the date of
4 surrender of the license to the court or district attorney,
5 whichever shall first occur.]

6 (b) Suspension, revocation or disqualification of operating
7 privilege.--

8 (1) Upon the suspension or revocation of the operating
9 privilege or the disqualification of the commercial operating
10 privilege of any person by the department, the department
11 shall forthwith notify the person in writing at the address
12 of record to surrender his driver's license to the department
13 for the term of suspension, revocation or disqualification.
14 Licenses that are surrendered to the department may be
15 destroyed. Upon the restoration of the operating privilege,
16 the licensee may apply for a replacement license.

17 (2) The department shall include with the written notice
18 of suspension, revocation or disqualification a form for
19 acknowledging the suspension, revocation or disqualification,
20 which form shall be filed with the department if the person
21 has no license to surrender.

22 (3) The suspension, revocation or disqualification shall
23 be effective upon [the earlier of:

24 (i)] a date determined by the department[; or
25 (ii) the date of filing or mailing of the license or
26 acknowledgment to the department, if that date is
27 subsequent to the department's notice to surrender the
28 license.]

29 (4) Upon surrender of the license or acknowledgment, the
30 department shall issue a receipt showing the date that it

1 received the license or acknowledgment].

2 (c) Seizure of revoked, suspended, canceled or disqualified
3 licenses.--

4 [(1) The department may delegate authority to the
5 following persons to seize the driver's license of any person
6 whose driver's license has been ordered to be surrendered by
7 a court or district attorney or by the department:

8 (i) A designated Commonwealth employee.

9 (ii) Members of the Pennsylvania State Police.

10 (iii) Local police officers.

11 (iv) Sheriffs or deputy sheriffs.

12 (v) Constables or deputy constables.

13 (2) The department shall, by regulation, prescribe the
14 manner of selecting those persons who are delegated authority
15 under this subsection to seize the drivers' licenses.]

16 Any police officer or designated employee of the Commonwealth
17 shall be authorized to confiscate any license that has been
18 revoked, suspended, canceled or disqualified. The confiscated
19 license shall be returned to the department, unless it is
20 necessary to keep the license as evidence of an offense.

21 § 1541. Period of disqualification, revocation or suspension of
22 operating privilege.

23 (a) Commencement of period.--The period of disqualification,
24 revocation or suspension of the operating privilege or the
25 disqualification of the commercial operating privilege shall
26 commence as provided for in section 1540 (relating to surrender
27 of license) [. No credit toward the revocation, suspension or
28 disqualification shall be earned until the driver's license is
29 surrendered to the department, a court or a district attorney,
30 as the case may be. A nonresident licensed driver or an

1 unlicensed individual, including a driver whose license has
2 expired, shall submit an acknowledgment of suspension or
3 revocation to the department in lieu of a driver's license],
4 except for the suspension of the operating privilege of an
5 unlicensed individual under 16 years of age, in which case the
6 suspension shall commence automatically upon the individual's
7 16th birthday for the specified period [if an acknowledgment is
8 received any time prior to the individual's 16th birthday. If a
9 licensed driver is not in possession of his driver's license, no
10 credit toward the disqualification, revocation or suspension
11 shall be earned until a sworn affidavit or a form prescribed by
12 the department is surrendered to the department swearing that
13 the driver is not in possession of his driver's license. Such
14 credit shall be rescinded if it is later determined that the
15 driver was untruthful in the affidavit. Credit shall also be
16 revoked if a person surrenders a duplicate license and it is
17 later determined that the person was still in possession of an
18 earlier issued, unexpired license]. The department may, upon
19 request of the person whose license is suspended or
20 disqualified, delay the commencement of the period of suspension
21 or disqualification for a period not exceeding six months
22 whenever the department determines that failure to grant the
23 extension will result in hardship to the person whose license
24 has been suspended or disqualified.

25 * * *

26 (e) [Request for hearing.--A person whose operating
27 privilege has been suspended or revoked may request at any time
28 during the suspension or revocation, and the department shall
29 provide, a hearing if the person believes that credit toward the
30 person's suspension or revocation has not been given by the

1 department under section 1540. The department shall issue its
2 final ruling within 60 days following the hearing or the
3 submission of any posthearing filings.] (Reserved).

4 Section 2. Sections 1543(a) and (c) and 1547(a), (b) and
5 (b.1) of Title 75 are amended and the sections are amended by
6 adding subsections to read:

7 § 1543. Driving while operating privilege is suspended or
8 revoked.

9 (a) Offense defined.--Except as provided in subsection (b),
10 any person who drives a motor vehicle on any highway or
11 trafficway of this Commonwealth after the commencement of a
12 suspension, revocation or cancellation of the operating
13 privilege and before the operating privilege has been restored
14 is guilty of a summary offense and shall, upon conviction or
15 adjudication of delinquency, be sentenced to pay a fine of \$200.

16 * * *

17 (c) Suspension or revocation of operating privilege.--Upon
18 receiving a certified record of the conviction or adjudication
19 of delinquency of any person under this section, the department
20 shall suspend or revoke that person's operating privilege as
21 follows:

22 (1) If the department's records show that the person was
23 under suspension, recall or cancellation on the date of
24 violation, and had not been restored, the department shall
25 suspend the person's operating privilege for an additional
26 one-year period.

27 (2) If the department's records show that the person was
28 under revocation on the date of violation, and had not been
29 restored, the department shall revoke the person's operating
30 privilege for an additional two-year period.

1 * * *

2 (e) Prohibition.--A person charged with an offense under
3 this section may not claim a defense that the person did not
4 know of the suspension, cancellation or revocation.

5 § 1547. Chemical testing to determine amount of alcohol or
6 controlled substance.

7 (a) General rule.--Any person who drives, operates or is in
8 actual physical control of the movement of a vehicle in this
9 Commonwealth shall be deemed to have given consent to one or
10 more chemical tests of breath or blood for the purpose of
11 determining the alcoholic content of blood or the presence of a
12 controlled substance if a police officer has reasonable grounds
13 to believe the person to have been driving, operating or in
14 actual physical control of the movement of a vehicle[:

15 (1)] in violation of section 1543(b)(1.1) (relating to
16 driving while operating privilege is suspended or revoked),
17 3802 (relating to driving under influence of alcohol or
18 controlled substance) or 3808(a)(2) (relating to illegally
19 operating a motor vehicle not equipped with ignition
20 interlock)[; or

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

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

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

30 (i) Except as set forth in subparagraph (ii), for a

1 period of 12 months.

2 (ii) For a period of 18 months if any of the
3 following apply:

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

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

8 (I) an offense under section 3802;

9 (II) an offense under former section 3731;

10 (III) an offense equivalent to an offense
11 under subclause (I) or (II); or

12 (IV) a combination of the offenses set forth
13 in this clause.

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

16 (i) the person's operating privilege will be
17 suspended upon refusal to submit to chemical testing and
18 the person will be subject to a restoration fee of up to
19 \$2,000; and

20 (ii) if the person refuses to submit to chemical
21 breath testing, upon conviction or plea for violating
22 section 3802(a)(1), the person will be subject to the
23 penalties provided in section 3804(c) (relating to
24 penalties).

25 (3) Any person whose operating privilege is suspended
26 under the provisions of this section shall have the same
27 right of appeal as provided for in cases of suspension for
28 other reasons.

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

30 (1) If any person placed under arrest for a violation of

1 section 1543(b) (1.1) or 3808(a) (2) is requested to submit to
2 chemical testing and refuses to do so, the testing shall not
3 be conducted; but, upon notice by the police officer and
4 provided no suspension is imposed pursuant to subsection (b),
5 the department shall suspend the operating privilege of the
6 person for a period of six months.

7 (2) It shall be the duty of the police officer to inform
8 the person that the person's operating privileges will be
9 suspended upon refusal to submit to chemical testing and the
10 person will be subject to a restoration fee of up to \$2,000.

11 (3) Notwithstanding section 3805(c) (relating to
12 ignition interlock), if any person receives a suspension
13 pursuant to this subsection who at the time of the offense
14 was required to comply with the provisions of section 3805
15 prior to obtaining a replacement license under section
16 1951(d) (relating to driver's license and learner's license)
17 that does not contain an ignition interlock restriction, the
18 suspension imposed pursuant to this subsection shall result
19 in the recall of any ignition interlock restricted license
20 previously issued and the driver shall surrender the ignition
21 interlock restricted license to the department [or its agents
22 designated under the authority of section 1540 (relating to
23 surrender of licenses)] and, prior to the issuance of a
24 replacement license under section 1951(d) that does not
25 contain an ignition interlock restriction, the department
26 shall require that the person comply with the provisions of
27 section 3805.

28 (b.2) Restoration fees.--

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

1 (i) Except as provided in subparagraph (ii), pay a
2 restoration fee of \$500.

3 (ii) If the department has previously suspended the
4 person's operating privilege under this section on two or
5 more occasions, pay a restoration fee of \$2,000.

6 (2) All restoration fees imposed under this section must
7 be paid prior to the reinstatement of an individual's
8 operating privilege.

9 (b.3) Limitation.--Nothing in this section shall be
10 construed as limiting the ability of law enforcement to obtain
11 chemical testing pursuant to a valid search warrant, court order
12 or any other basis permissible by the Constitution of the United
13 States and the Constitution of Pennsylvania.

14 * * *

15 Section 3. Sections 1554(b)(2), 3804(c), 3805(a.1), (h.2)(1)
16 and (i), 3808(c)(2) and 6503.1 of Title 75 are amended to read:
17 § 1554. Probationary license.

18 * * *

19 (b) Petition.--

20 * * *

21 (2) Before being eligible to petition for a probationary
22 license, a person must have served [and earned credit toward
23 serving] the following terms of suspension or revocation for
24 offenses enumerated in sections 1532 (relating to revocation
25 or suspension of operating privilege), 1539 (relating to
26 suspension of operating privilege on accumulation of points)
27 and 1543 (relating to driving while operating privilege is
28 suspended or revoked):

29 (i) A person with one to seven offenses must have
30 [earned credit for] served at least a three-year term of

1 suspension or revocation.

2 (ii) A person with 8 to 14 offenses must have
3 [earned credit for] served at least a four-year term of
4 suspension or revocation.

5 (iii) A person with 15 to 21 offenses must have
6 [earned credit for] served at least a five-year term of
7 suspension or revocation.

8 (iv) A person with 22 or more offenses must have
9 [earned credit for] served at least a six-year term of
10 suspension or revocation.

11 * * *

12 § 3804. Penalties.

13 * * *

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

21 (1) For a first offense, to:

22 (i) undergo imprisonment of not less than 72
23 consecutive hours;

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

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

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

30 (2) For a second offense, to:

- 1 (i) undergo imprisonment of not less than 90 days;
2 (ii) pay a fine of not less than \$1,500;
3 (iii) attend an alcohol highway safety school
4 approved by the department; and
5 (iv) comply with all drug and alcohol treatment
6 requirements imposed under sections 3814 and 3815.

7 (3) For a third or subsequent offense, to:

- 8 (i) undergo imprisonment of not less than one year;
9 (ii) pay a fine of not less than \$2,500; and
10 (iii) comply with all drug and alcohol treatment
11 requirements imposed under sections 3814 and 3815.

12 * * *

13 § 3805. Ignition interlock.

14 * * *

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

17 (1) Is subject to the penalties under section 3804(a)(1)
18 (relating to penalties)[.] or subject to mandatory suspension
19 of operating privilege under section 3807(d) (relating to
20 Accelerated Rehabilitative Disposition).

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

23 * * *

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

1 (1) An attempt to start the vehicle with a breath
2 alcohol concentration of 0.08% or more, not followed within
3 [five] 10 minutes by a subsequent attempt with a breath
4 alcohol concentration lower than 0.08%.

5 * * *

6 (i) Offenses committed during a period for which an ignition
7 interlock restricted license has been issued.--Except as
8 provided in sections 1547(b.1) and 3808(c) (relating to
9 illegally operating a motor vehicle not equipped with ignition
10 interlock), any driver who has been issued an ignition interlock
11 restricted license and as to whom the department receives a
12 certified record of a conviction of an offense for which the
13 penalty is a cancellation, disqualification, recall, suspension
14 or revocation of operating privileges shall have the ignition
15 interlock restricted license recalled, and the driver shall
16 surrender the ignition interlock restricted license to the
17 department [or its agents designated under the authority of
18 section 1540 (relating to surrender of license)]. Following the
19 completion of the cancellation, disqualification, recall,
20 suspension or revocation which resulted in the recall of the
21 ignition interlock restricted license, the department shall
22 require that the person complete the balance of the ignition
23 interlock restricted license period previously imposed prior to
24 the issuance of a replacement license under section 1951(d) that
25 does not contain an ignition interlock restriction.

26 § 3808. Illegally operating a motor vehicle not equipped with
27 ignition interlock.

28 * * *

29 (c) Suspension of operating privilege.--Notwithstanding
30 section 3805(c) and (i):

1 * * *

2 (2) Upon receipt of a certified record of a second
3 conviction of a violation of this section committed by a
4 person who is required to only drive, operate or be in actual
5 physical control of the movement of a motor vehicle equipped
6 with an ignition interlock system which occurred during the
7 same ignition interlock restricted license period, the
8 department shall suspend the person's operating privileges
9 for a period of one year and recall the ignition interlock
10 restricted license, and the person shall surrender the
11 ignition interlock restricted license to the department [or
12 its agents designated under the authority of section 1540
13 (relating to surrender of license)]. Following completion of
14 the suspension period, the department shall require that the
15 person comply with the requirements of section 3805 prior to
16 being eligible to receive a replacement license under section
17 1951(d) that does not contain an ignition interlock
18 restriction.

19 * * *

20 § 6503.1. Habitual offenders.

21 A habitual offender under section 1542 (relating to
22 revocation of habitual offender's license) who drives a motor
23 vehicle on any highway or trafficway of this Commonwealth while
24 the habitual offender's operating privilege is suspended,
25 revoked or canceled commits a misdemeanor of the second degree.
26 A person charged under this section may not claim a defense that
27 the person did not know of the suspension, revocation or
28 cancellation.

29 Section 4. This act shall take effect as follows:

30 ~~(1) Except for 75 Pa.C.S. § 1547(b)(2)(ii), the~~

<--

1 ~~amendment of 75 Pa.C.S. § 1547 shall take effect in six~~
2 ~~months.~~

3 ~~(2) The remainder of this act shall take effect~~
4 ~~immediately.~~

5 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
6 IMMEDIATELY: <--

7 (I) THE AMENDMENT OF 75 PA.C.S. §§ 1547(B)(2)(II),
8 3804(C) AND 3805(A.1) AND (H.2)(1).

9 (II) THIS SECTION.

10 (2) THE AMENDMENT OR ADDITION OF 75 PA.C.S. § 1547(A),
11 (B) HEADING, (1), (2)(I) AND (3), (B.1), (B.2) AND (B.3)
12 SHALL TAKE EFFECT IN SIX MONTHS.

13 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 15
14 MONTHS.