
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 961 Session of
2017

INTRODUCED BY RAFFERTY, DINNIMAN, MARTIN, SABATINA, TARTAGLIONE,
SCAVELLO, AUMENT AND WARD, NOVEMBER 15, 2017

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

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in licensing of drivers, further providing for
3 learner's permits and for driving while operating privilege
4 is suspended or revoked; in miscellaneous provisions, further
5 providing for the offenses of homicide by vehicle, aggravated
6 assault by vehicle, homicide by vehicle while driving under
7 influence, aggravated assault by vehicle while driving under
8 the influence and for accidents involving death or personal
9 injury while not properly licensed; and, in driving after
10 imbibing alcohol or utilizing drugs, further providing for
11 grading.

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

14 Section 1. Sections 1505(b), 1543(b)(1), 3732(b), 3732.1(b)
15 and 3735(a) of Title 75 of the Pennsylvania Consolidated
16 Statutes are amended to read:

17 § 1505. Learners' permits.

18 * * *

19 (b) Learner must be accompanied.--A learner's permit
20 entitles the person to whom it was issued to drive vehicles and
21 combinations of vehicles of the class or classes specified, but

1 only while the holder of the learner's permit is accompanied by
2 and under the immediate supervision of a person who:

3 (1) is at least 21 years of age or, if the spouse of the
4 learner's permit holder, is at least 18 years of age; or, if
5 a parent, guardian or person in loco parentis of the
6 learner's permit holder, is at least 18 years of age;

7 (2) is licensed to drive vehicles of the class then
8 being driven by the holder of the learner's permit; [and]

9 (3) is actually occupying a seat beside the holder of
10 the learner's permit unless the vehicle is a motorcycle[.];
11 and

12 (4) is not manifestly under the influence of alcohol or
13 a controlled substance, except a controlled substance taken <--
14 pursuant to a lawful order of a practitioner, DRUGS to the <--
15 degree that the person may endanger themselves or others.

16 * * *

17 § 1543. Driving while operating privilege is suspended or
18 revoked.

19 * * *

20 (b) Certain offenses.--

21 (1) The following shall apply:

22 (i) A person who drives a motor vehicle on a highway
23 or trafficway of this Commonwealth at a time when the
24 person's operating privilege is suspended or revoked as a
25 condition of acceptance of Accelerated Rehabilitative
26 Disposition for a violation of section 3802 (relating to
27 driving under influence of alcohol or controlled
28 substance) or the former section 3731, because of a
29 violation of section 1547(b)(1) (relating to suspension
30 for refusal) or 3802 or former section 3731 or is

1 suspended under section 1581 (relating to Driver's
2 License Compact) for an offense substantially similar to
3 a violation of section 3802 or former section 3731 shall,
4 upon a first conviction, be guilty of a summary offense
5 and shall be sentenced to pay a fine of \$500 and to
6 undergo imprisonment for a period of not less than 60
7 days nor more than 90 days.

8 (ii) A second violation of this paragraph shall
9 constitute a summary offense and, upon conviction of this
10 paragraph, a person shall be sentenced to pay a fine of
11 \$1,000 and to undergo imprisonment for not less than 90
12 days.

13 (iii) A third or subsequent violation of this
14 paragraph shall constitute a misdemeanor of the third
15 degree and, upon conviction of this paragraph, a person
16 shall be sentenced to pay a fine of \$2,500 and to undergo
17 imprisonment for not less than six months.

18 * * *

19 § 3732. Homicide by vehicle.

20 * * *

21 (b) Sentencing.--

22 (1) In addition to any other penalty provided by law, a
23 person convicted of a violation of subsection (a) may be
24 sentenced to an additional term not to exceed five years'
25 confinement if at trial the prosecution proves beyond a
26 reasonable doubt that the offense occurred in an active work
27 zone.

28 (1.1) In addition to any other penalty provided by law,
29 a person convicted of a violation of subsection (a) [as the
30 result of a violation of section] who is also convicted of a

1 violation of section 1501 (relating to drivers required to be
2 licensed), 1543 (relating to driving while operating
3 privilege is suspended or revoked), 3316 (relating to
4 prohibiting text-based communications), 3325 (relating to
5 duty of driver on approach of emergency vehicle) or 3327
6 (relating to duty of driver in emergency response areas) [and
7 who is convicted of violating section 3316, 3325 or 3327] may
8 be sentenced to an additional term not to exceed five years'
9 confinement [when the violation resulted in death].

10 (2) The prosecution must indicate intent to proceed
11 under this section in the indictment or information which
12 commences the prosecution.

13 (3) The Pennsylvania Commission on Sentencing, pursuant
14 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
15 sentencing), shall provide for a sentencing enhancement for
16 an offense under this section when the violation occurred in
17 an active work zone or [was the result of a violation of
18 section] the individual was also convicted of a violation of
19 section 1501, 1543, 3316, 3325 or 3327.

20 § 3732.1. Aggravated assault by vehicle.

21 * * *

22 (b) Sentencing.--

23 (1) In addition to any other penalty provided by law, a
24 person convicted of a violation of subsection (a) may be
25 sentenced to an additional term not to exceed two years'
26 confinement if at trial the prosecution proves beyond a
27 reasonable doubt that the offense occurred in an active work
28 zone.

29 (2) In addition to any other penalty provided by law, a
30 person convicted of a violation of subsection (a) [as the

1 result of a violation of section] who is also convicted of a
2 violation of section 1501 (relating to drivers required to be
3 licensed), 1543 (relating to driving while operating
4 privilege is suspended or revoked), 3316 (relating to
5 prohibiting text-based communications), 3325 (relating to
6 duty of driver on approach of emergency vehicle) or 3327
7 (relating to duty of driver in emergency response areas) [and
8 who is convicted of violating section 3316, 3325 or 3327] may
9 be sentenced to an additional term not to exceed two years'
10 confinement [when the violation resulted in serious bodily
11 injury].

12 (3) The prosecution must indicate intent to proceed
13 under this section in the indictment or information which
14 commences the prosecution.

15 (4) The Pennsylvania Commission on Sentencing, under 42
16 Pa.C.S. § 2154 (relating to adoption of guidelines for
17 sentencing), shall provide for a sentencing enhancement for
18 an offense under this section when the violation occurred in
19 an active work zone or [was the result of a violation of
20 section] the individual was also convicted of a violation of
21 section 1501, 1543, 3316, 3325 or 3327.

22 § 3735. Homicide by vehicle while driving under influence.

23 (a) Offense defined.--[Any person who unintentionally causes
24 the death of another person as the result of a violation of
25 section 3802 (relating to driving under influence of alcohol or
26 controlled substance) and who is convicted of violating section
27 3802 is guilty of a felony of the second degree when the
28 violation is the cause of death and the sentencing court shall
29 order the person to serve a minimum term of imprisonment of not
30 less than three years. A consecutive three-year term of

1 imprisonment shall be imposed for each victim whose death is the
2 result of the violation of section 3802.]

3 (1) A person who unintentionally causes the death of
4 another person as the result of a violation of section 3802
5 (relating to driving under influence of alcohol or controlled
6 substance) and who is convicted of violating section 3802:

7 (i) is guilty of a felony of the second degree; or

8 (ii) is guilty of a felony of the first degree if,
9 before sentencing on the present violation, the person
10 has incurred a conviction, adjudication of delinquency,
11 juvenile consent decree, acceptance of Accelerated
12 Rehabilitative Disposition or other form of preliminary
13 disposition for any of the following:

14 (A) An offense under section 3802.

15 (B) An offense under former section 3731
16 (relating to driving under influence of alcohol or
17 controlled substance).

18 (C) An offense which constitutes a felony under
19 this subchapter.

20 (D) An offense substantially similar to an
21 offense under clause (A), (B) or (C) in another
22 jurisdiction.

23 (E) Any combination of the offenses under clause
24 (A), (B), (C) or (D).

25 (2) The sentencing court shall order a person convicted
26 under paragraph (1)(i) to serve a minimum term of
27 imprisonment of not less than three years. A consecutive
28 three-year term of imprisonment shall be imposed for each
29 victim whose death is the result of a violation of section
30 3802.

1 (3) The sentencing court shall order a person convicted
2 under paragraph (1)(ii) to serve a minimum term of
3 imprisonment of:

4 (i) Not less than five years if, before sentencing
5 on the present violation, the person has one prior
6 conviction, adjudication of delinquency, juvenile consent
7 decree, acceptance of accelerated rehabilitative
8 disposition or other form of preliminary disposition for
9 any of the offenses listed under paragraph (1)(ii)(A),
10 (B), (C), (D) or (E). A consecutive five-year term of
11 imprisonment shall be imposed for each victim whose death
12 is the result of a violation of section 3802.

13 (ii) Not less than seven years if, before sentencing
14 on the present violation, the person has incurred at
15 least two prior convictions, adjudications of
16 delinquency, juvenile consent decrees, acceptances of
17 Accelerated Rehabilitative Disposition or other forms of
18 preliminary disposition for any of the offenses listed
19 under paragraph (1)(ii)(A), (B), (C), (D) or (E). A
20 consecutive seven-year term of imprisonment shall be
21 imposed for each victim whose death is the result of a
22 violation of section 3802.

23 * * *

24 Section 2. Section 3735.1 of Title 75 is amended by adding a
25 subsection to read:

26 § 3735.1. Aggravated assault by vehicle while driving under the
27 influence.

28 * * *

29 (a.1) Sentencing.--In addition to any other penalty provided
30 by law, a person convicted of a violation of subsection (a) and

1 a violation of section 1501 (relating to drivers required to be
2 licensed) or 1543 (relating to driving while operating privilege
3 is suspended or revoked) when committed at the same time and
4 place may be sentenced to an additional term not to exceed two
5 years' confinement.

6 Section 3. Sections 3742.1 and 3803 of Title 75 are amended
7 to read:

8 § 3742.1. Accidents involving death or personal injury while
9 not properly licensed.

10 (a) Offense defined.--A person whose operating privilege was
11 disqualified, canceled, recalled, revoked or suspended and not
12 restored or who does not hold a valid driver's license and
13 applicable endorsements for the type and class of vehicle being
14 operated commits an offense under this section if the person was
15 the driver of any vehicle and [caused an accident resulting in
16 injury or death of any person.]:

17 (1) caused an accident resulting in injury or death of a
18 person; or

19 (2) ACTING WITH NEGLIGENCE, was involved in an accident <--
20 resulting in injury or death of a person.

21 (b) Penalties.--

22 (1) Except as otherwise provided in this section, any
23 person violating subsection [(a)] (a)(1) commits a
24 misdemeanor of the second degree.

25 (2) If the victim suffers serious bodily injury or
26 death, any person violating subsection [(a)] (a)(1) commits a
27 felony of the third degree.

28 (2.1) A person violating subsection (a)(2) resulting in
29 the serious bodily injury of a person commits a misdemeanor
30 of the third degree.

1 (2.2) A person violating subsection (a)(2) resulting in
2 the death of a person commits a misdemeanor of the second
3 degree.

4 (3) Any motor vehicle, as defined in section 102
5 (relating to definitions), used in the commission of an
6 offense under this section may be deemed contraband and
7 forfeited in accordance with the provisions set forth in 18
8 Pa.C.S. § 6501(d) (relating to scattering rubbish).

9 § 3803. Grading.

10 (a) Basic offenses.--Except as provided in subsection (b):

11 (1) An individual who violates section 3802(a) (relating
12 to driving under influence of alcohol or controlled
13 substance) and has ~~no more than~~ one prior offense commits a <--
14 misdemeanor for which the individual may be sentenced to a
15 term of imprisonment of not more than six months and to pay a
16 fine under section 3804 (relating to penalties).

17 (2) An individual who violates section 3802(a) and has
18 [more than one prior offense] two prior offenses commits a
19 misdemeanor of the second degree.

20 (3) An individual who violates section 3802 and has
21 three or more prior offenses or has previously been convicted
22 of a violation of section 3735 (relating to homicide by
23 vehicle while driving under influence) commits a felony of
24 the third degree.

25 (b) Other offenses.--

26 (1) An individual who violates section 3802(a)(1) where
27 there was an accident resulting in bodily injury, serious
28 bodily injury or death of any person or in damage to a
29 vehicle or other property, or who violates section 3802(b),
30 (e) or (f) and who has [no more than] one prior offense

1 commits a misdemeanor for which the individual may be
2 sentenced to a term of imprisonment of not more than six
3 months and to pay a fine under section 3804.

4 (2) An individual who violates section 3802(a)(1) where
5 the individual refused testing of [blood or] breath or
6 chemical testing pursuant to a valid search warrant, court
7 order or any other basis permissible by the Constitution of
8 the United States and the Constitution of Pennsylvania, or
9 who violates section 3802(c) or (d) and who has no prior
10 offenses commits a misdemeanor for which the individual may
11 be sentenced to a term of imprisonment of not more than six
12 months and to pay a fine under section 3804.

13 (3) An individual who violates section 3802(a)(1) where
14 there was an accident resulting in bodily injury, serious
15 bodily injury or death of any person or in damage to a
16 vehicle or other property, or who violates section 3802(b),
17 (e) or (f) and who has [more than one prior offense] two
18 prior offenses commits a misdemeanor of the first degree.

19 (4) An individual who violates section 3802(a)(1) where
20 the individual refused testing of [blood or] breath or
21 chemical testing pursuant to a valid search warrant, court
22 order or any other basis permissible by the Constitution of
23 the United States and the Constitution of Pennsylvania, or
24 who violates section 3802(c) or (d) and who has one [or more]
25 prior [offenses] offense commits a misdemeanor of the first
26 degree.

27 (4.1) An individual who violates section 3802(a)(1)
28 where the individual refused testing of breath or chemical
29 testing pursuant to a valid search warrant, court order or
30 any other basis permissible by the Constitution of the United

1 States and the Constitution of Pennsylvania, or who violates
2 section 3802(c) or (d) and who has two or more prior offenses
3 commits a felony of the third degree.

4 (5) An individual who violates section 3802 where a
5 minor under 18 years of age was an occupant in the vehicle
6 when the violation occurred commits a misdemeanor of the
7 first degree.

8 Section 4. This act shall take effect in 60 days.