

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 15, 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 FOR ACCIDENTS <--
10 INVOLVING CERTAIN VEHICLES; and, in driving after imbibing
11 alcohol or utilizing drugs, further providing for grading AND <--
12 FOR PENALTIES.

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

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

18 § 1505. Learners' permits.

19 * * *

20 (b) Learner must be accompanied.--A learner's permit
21 entitles the person to whom it was issued to drive vehicles and

1 combinations of vehicles of the class or classes specified, but
2 only while the holder of the learner's permit is accompanied by
3 and under the immediate supervision of a person who:

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

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

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

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

17 * * *

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

20 * * *

21 (b) Certain offenses.--

22 (1) The following shall apply:

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

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

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

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

19 * * *

20 § 3732. Homicide 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 five 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 (1.1) In addition to any other penalty provided by law,
30 a 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 five years'

10 confinement [when the violation resulted in death].

11 (2) The prosecution must indicate intent to proceed

12 under this section in the indictment or information which

13 commences the prosecution.

14 (3) The Pennsylvania Commission on Sentencing, pursuant

15 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for

16 sentencing), shall provide for a sentencing enhancement for

17 an offense under this section when the violation occurred in

18 an active work zone or [was the result of a violation of

19 section] the individual was also convicted of a violation of

20 section 1501, 1543, 3316, 3325 or 3327.

21 § 3732.1. Aggravated assault by vehicle.

22 * * *

23 (b) Sentencing.--

24 (1) In addition to any other penalty provided by law, a

25 person convicted of a violation of subsection (a) may be

26 sentenced to an additional term not to exceed two years'

27 confinement if at trial the prosecution proves beyond a

28 reasonable doubt that the offense occurred in an active work

29 zone.

30 (2) In addition to any other penalty provided by law, a

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

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

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

23 § 3735. Homicide by vehicle while driving under influence.

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

1 less than three years. A consecutive three-year term of
2 imprisonment shall be imposed for each victim whose death is the
3 result of the violation of section 3802.]

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

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

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

15 (A) An offense under section 3802.

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

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

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

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

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

1 3802.

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

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

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

24 * * *

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

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

29 * * *

30 (a.1) Sentencing.--In addition to any other penalty provided

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

7 Section 3. Sections 3742.1 ~~and 3803~~, 3756, 3803 AND 3804(E) <--
8 (2) (II) of Title 75 are amended to read:

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

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

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

20 (2) ACTING WITH NEGLIGENCE, was involved in an THAT <--
21 CONTRIBUTED TO CAUSING THE accident resulting in injury or
22 death of a person.

23 (b) Penalties.--

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

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

30 (2.1) A person violating subsection (a) (2) resulting in

1 the serious bodily injury of a person commits a misdemeanor
2 of the third degree.

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

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

11 § 3756. [ACCIDENTS INVOLVING CERTAIN VEHICLES] POST-ACCIDENT <--
12 TESTING.

13 [(A) TESTING REQUIREMENT.--A POLICE OFFICER INVESTIGATING AN
14 ACCIDENT INVOLVING A MOTOR CARRIER VEHICLE, BUS, SCHOOL BUS OR A
15 VEHICLE TRANSPORTING HAZARDOUS MATERIALS REQUIRED TO BE
16 PLACARDED BY DEPARTMENT REGULATIONS AND REQUIRED TO BE
17 INVESTIGATED UNDER THIS SUBCHAPTER SHALL REQUEST THAT THE DRIVER
18 OF THE VEHICLE SUBMIT TO TESTING FOR ALCOHOL AND CONTROLLED
19 SUBSTANCES. COSTS FOR TESTING UNDER THIS SECTION SHALL BE BORNE
20 BY THE DRIVER'S EMPLOYER.

21 (B) PENALTY.--A DRIVER WHO REFUSES TO SUBMIT TO ALCOHOL OR
22 CONTROLLED SUBSTANCES TESTING UNDER THIS SECTION COMMITS A
23 SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY
24 A FINE OF UP TO \$200.] THE DEPARTMENT SHALL PROMULGATE
25 REGULATIONS CONSISTENT WITH 49 CFR 382.303 (RELATING TO POST-
26 ACCIDENT TESTING).

27 § 3803. Grading.

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

29 (1) An individual who violates section 3802(a) (relating
30 to driving under influence of alcohol or controlled

1 substance) and has ~~no more than~~ one prior offense commits a <--
2 misdemeanor for which the individual may be sentenced to a
3 term of imprisonment of not more than six months and to pay a
4 fine under section 3804 (relating to penalties).

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

8 (3) An individual who violates section 3802 and has
9 three or more prior offenses or has previously been convicted
10 of a violation of section 3735 (relating to homicide by
11 vehicle while driving under influence) commits a felony of
12 the third degree.

13 (b) Other offenses.--

14 (1) An individual who violates section 3802(a)(1) where
15 there was an accident resulting in bodily injury, serious
16 bodily injury or death of any person or in damage to a
17 vehicle or other property, or who violates section 3802(b),
18 (e) or (f) and who has [no more than] one prior offense
19 commits a misdemeanor for which the individual may be
20 sentenced to a term of imprisonment of not more than six
21 months and to pay a fine under section 3804.

22 (2) An individual who violates section 3802(a)(1) where
23 the individual refused testing of [blood or] breath or
24 chemical testing pursuant to a valid search warrant, court
25 order or any other basis permissible by the Constitution of
26 the United States and the Constitution of Pennsylvania, or
27 who violates section 3802(c) or (d) and who has no prior
28 offenses commits a misdemeanor for which the individual may
29 be sentenced to a term of imprisonment of not more than six
30 months and to pay a fine under section 3804.

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

7 (4) An individual who violates section 3802(a)(1) where
8 the individual refused testing of [blood or] breath or
9 chemical testing pursuant to a valid search warrant, court
10 order or any other basis permissible by the Constitution of
11 the United States and the Constitution of Pennsylvania, or
12 who violates section 3802(c) or (d) and who has one [or more]
13 prior [offenses] offense commits a misdemeanor of the first
14 degree.

15 (4.1) An individual who violates section 3802(a)(1)
16 where the individual refused testing of breath or chemical
17 testing pursuant to a valid search warrant, court order or
18 any other basis permissible by the Constitution of the United
19 States and the Constitution of Pennsylvania, or who violates
20 section 3802(c) or (d) and who has two or more prior offenses
21 commits a felony of the third degree.

22 (5) An individual who violates section 3802 where a
23 minor under 18 years of age was an occupant in the vehicle
24 when the violation occurred commits [a misdemeanor of the <--
25 first degree.]: <--

26 (I) A MISDEMEANOR OF THE FIRST DEGREE IF THE
27 INDIVIDUAL HAS NO MORE THAN ONE PRIOR OFFENSE.

28 (II) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL
29 HAS TWO OR MORE PRIOR OFFENSES.

30 § 3804. PENALTIES.

1 * * *

2 (E) SUSPENSION OF OPERATING PRIVILEGES UPON CONVICTION.--

3 * * *

4 (2) SUSPENSION UNDER PARAGRAPH (1) SHALL BE IN
5 ACCORDANCE WITH THE FOLLOWING:

6 * * *

7 (II) 18 MONTHS FOR A MISDEMEANOR OF THE FIRST DEGREE
8 OR FELONY OF THE THIRD DEGREE UNDER THIS CHAPTER.

9 * * *

10 Section 4. This act shall take effect ~~in 60 days~~. AS <--
11 FOLLOWS:

12 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
13 IMMEDIATELY:

14 (I) THE AMENDMENT OF 75 PA.C.S. § 3756.

15 (II) THIS SECTION.

16 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
17 DAYS.