

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 916 Session of 2019

INTRODUCED BY STEPHENS, MURT, CALTAGIRONE, MILLARD, DeLUCA, MENTZER, PYLE, BERNSTINE, ROTHMAN, NEILSON, WARREN, HERSHEY AND WEBSTER, MARCH 20, 2019

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 2019

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; and, in licensing of drivers, providing for <--
4 continuous alcohol monitoring device. IN DRIVING AFTER <--
5 IMBIBING ALCOHOL OR UTILIZING DRUGS, PROVIDING FOR EVALUATION
6 FOR SUBSTANCE MONITORING.

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

9 Section 1. Section 102 of Title 75 of the Pennsylvania <--
10 Consolidated Statutes is amended by adding a definition to read:

11 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--

12 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:

13 § 102. Definitions.

14 Subject to additional definitions contained in subsequent
15 provisions of this title which are applicable to specific
16 provisions of this title, the following words and phrases when
17 used in this title shall have, unless the context clearly
18 indicates otherwise, the meanings given to them in this section:

19 * * *

1 ~~"Continuous alcohol monitoring device" or "device." A~~

2 ~~monitoring device or instrument that:~~

3 ~~(1) is attached to the person;~~

4 ~~(2) is designed to automatically test the alcohol~~
5 ~~content in a person by contact with the skin of the person at~~
6 ~~least once per one half hour regardless of the location on~~
7 ~~the person;~~

8 ~~(3) detects the presence of alcohol; and~~

9 ~~(4) detects an attempt to tamper with, obstruct or~~
10 ~~remove the device or instrument.~~

11 * * *

12 Section 2. Title 75 is amended by adding a section to read:
13 ~~§ 1557. Continuous alcohol monitoring device.~~

14 ~~(a) Violations. A person arrested for a violation of~~
15 ~~section 3802(b) or (c) (relating to driving under influence of~~
16 ~~alcohol or controlled substance) within 10 years of a prior~~
17 ~~conviction for an offense under section 3802 or while pending~~
18 ~~adjudication for one or more prior charges of violating section~~
19 ~~3802 shall be fitted with a continuous alcohol monitoring~~
20 ~~device.~~

21 ~~(b) Determination and costs to be paid. A person fitted~~
22 ~~with a device under subsection (a) shall pay for all costs~~
23 ~~associated with the device, including administrative and~~
24 ~~operating costs. The court may authorize the county to finance~~
25 ~~the use of the device under subsection (a) if the court, at any~~
26 ~~time, determines the person fitted with a device under~~
27 ~~subsection (a) lacks the financial ability to pay all or part of~~
28 ~~the costs of the device.~~

29 ~~(c) Financial inquiry. A court determination under~~
30 ~~subsection (b) shall be based on an appropriate inquiry into the~~

~~1 financial circumstances of the person fitted with a device under
2 subsection (a) and an affidavit or certificate, signed by the
3 person fitted with a device under subsection (a), demonstrating
4 financial inability to pay all or part of the costs of the
5 device.~~

~~6 (d) Alcohol prohibited. At the initial court appearance and
7 as a condition for release on bail, the court shall order the
8 person fitted with a device under subsection (a) to refrain from
9 consuming any alcohol and submit to monitoring by a device for
10 no less than 90 days.~~

~~11 (e) Tampering prohibited. The court shall order the person
12 fitted with a device under subsection (a) to refrain from
13 tampering with the device.~~

~~14 (f) Modification or suspension of conditions. Except where
15 a court finds an extension of the 90 day period under subsection
16 (d) is necessary to ensure the safety of the public, and
17 notwithstanding any law to the contrary, the court may not
18 modify or suspend the conditions of this section.~~

~~19 (g) Device fitting. If the person under subsection (a) was
20 not previously fitted with a device, the court shall order the
21 person to be fitted with a continuous alcohol monitoring device
22 within 10 business days of the initial court appearance of the
23 person.~~

~~24 "CONTINUOUS ALCOHOL MONITORING DEVICE." A MONITORING DEVICE <--
25 OR INSTRUMENT THAT:~~

~~26 (1) IS ATTACHED TO THE INDIVIDUAL;~~

~~27 (2) IS DESIGNED TO AUTOMATICALLY TEST THE ALCOHOL
28 CONTENT IN AN INDIVIDUAL BY CONTACT WITH THE SKIN OF THE
29 INDIVIDUAL AT LEAST ONCE PER ONE-HALF HOUR REGARDLESS OF THE
30 LOCATION ON THE INDIVIDUAL;~~

1 (3) DETECTS THE PRESENCE OF ALCOHOL; AND

2 (4) DETECTS AN ATTEMPT TO TAMPER WITH, OBSTRUCT OR
3 REMOVE THE DEVICE OR INSTRUMENT.

4 * * *

5 "REMOTE BREATH TESTING DEVICE." AN UNSUPERVISED MOBILE
6 BREATH TESTING DEVICE THAT:

7 (1) IS NOT AFFIXED TO A MOTOR VEHICLE;

8 (2) HAS THE ABILITY TO CONFIRM THE IDENTITY AND LOCATION
9 OF THE INDIVIDUAL; AND

10 (3) DETECTS THE PRESENCE OF ALCOHOL.

11 * * *

12 "SUBSTANCE MONITORING PROGRAM." THE REQUIRED USE OF OR
13 PARTICIPATION IN ONE OR MORE OF THE FOLLOWING FOR NO LESS THAN
14 90 DAYS AS A CONDITION OF BAIL:

15 (1) A CONTINUOUS ALCOHOL MONITORING DEVICE, REMOTE
16 BREATH TESTING DEVICE OR ANY OTHER ALCOHOL MONITORING
17 TECHNOLOGY OR DEVICE.

18 (2) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
19 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE.

20 * * *

21 SECTION 2. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
22 § 3818. EVALUATION FOR SUBSTANCE MONITORING.

23 (A) EVALUATION REQUIRED.--IN ALL OF THE FOLLOWING
24 CIRCUMSTANCES AN INDIVIDUAL SHALL BE EVALUATED BY A COURT TO
25 DETERMINE WHETHER, AT THE COURT'S DISCRETION, THE INDIVIDUAL MAY
26 BE ORDERED TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM:

27 (1) WHILE ADJUDICATION OF A VIOLATION OF SECTION 3802
28 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
29 SUBSTANCE) IS PENDING FOR AN INDIVIDUAL WHO HAS ONE OR MORE
30 PRIOR CONVICTIONS FOR AN OFFENSE UNDER SECTION 3802 WITHIN 10

1 YEARS OF THE CURRENT OFFENSE.

2 (2) WHILE ADJUDICATION OF TWO OR MORE VIOLATIONS OF
3 SECTION 3802 IS CONCURRENTLY PENDING FOR AN INDIVIDUAL.

4 (B) DETERMINATION AND COSTS TO BE PAID.--IF THE COURT
5 REQUIRES AN INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING
6 PROGRAM AFTER AN EVALUATION IS ADMINISTERED UNDER SUBSECTION
7 (A), THE INDIVIDUAL SHALL PAY FOR ALL COSTS ASSOCIATED WITH THE
8 SUBSTANCE MONITORING PROGRAM, INCLUDING ADMINISTRATIVE AND
9 OPERATING COSTS OR COSTS ASSOCIATED WITH ANY REQUIRED DEVICES OR
10 TECHNOLOGIES. THE COURT MAY AUTHORIZE THE COUNTY TO FINANCE
11 COSTS ASSOCIATED WITH THE SUBSTANCE MONITORING PROGRAM IF THE
12 COURT, AT ANY TIME, DETERMINES THE INDIVIDUAL LACKS THE
13 FINANCIAL ABILITY TO PAY ALL OR PART OF COSTS ASSOCIATED WITH A
14 SUBSTANCE MONITORING PROGRAM.

15 (C) FINANCIAL INQUIRY.--A COURT DETERMINATION UNDER
16 SUBSECTION (B) SHALL BE BASED ON AN APPROPRIATE INQUIRY INTO THE
17 FINANCIAL CIRCUMSTANCES OF THE INDIVIDUAL REQUIRED TO
18 PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AND AN AFFIDAVIT
19 OR CERTIFICATE, SIGNED BY THAT INDIVIDUAL, DEMONSTRATING
20 FINANCIAL INABILITY TO PAY ALL OR PART OF THE COSTS ASSOCIATED
21 WITH THE SUBSTANCE MONITORING PROGRAM.

22 (D) PROHIBITIONS.--AN INDIVIDUAL REQUIRED TO PARTICIPATE IN
23 A SUBSTANCE MONITORING PROGRAM IS PROHIBITED FROM ALL OF THE
24 FOLLOWING FOR THE DURATION OF THE SUBSTANCE MONITORING PROGRAM:

25 (1) IMBIBING ALCOHOL, USING CONTROLLED SUBSTANCES OR
26 BOTH AS DETERMINED BY THE COURT.

27 (2) TAMPERING WITH ANY DEVICES OR TECHNOLOGIES
28 ASSOCIATED WITH THE SUBSTANCE MONITORING PROGRAM.

29 (3) FAILING TO COMPLY WITH ANY OTHER REQUIREMENTS
30 ORDERED BY THE COURT AS PART OF THE SUBSTANCE MONITORING

1 PROGRAM.
2 (E) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
3 CONSTRUED TO PROHIBIT A COURT FROM PERFORMING A SUBSTANCE
4 MONITORING PROGRAM EVALUATION ON AN INDIVIDUAL PENDING
5 ADJUDICATION FOR A SINGLE VIOLATION OF SECTION 3802 WITH NO
6 PREVIOUS CONVICTIONS FOR AN OFFENSE UNDER SECTION 3802 WITHIN
7 THE PREVIOUS 10 YEARS.

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