

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 773 Session of 2019

INTRODUCED BY KILLION, ARGALL, BLAKE, BREWSTER, COSTA, FOLMER, KEARNEY, MARTIN, MASTRIANO, MENSCH, PHILLIPS-HILL, SANTARSIERO, TOMLINSON, YAW, COLLETT, BARTOLOTTA AND DINNIMAN, AUGUST 28, 2019

AS AMENDED ON SECOND CONSIDERATION, JANUARY 27, 2020

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 ignition interlock limited license; in driving after imbibing
5 alcohol or utilizing drugs, further providing for grading,
6 for penalties, for ignition interlock and for mandatory
7 sentencing AND PROVIDING FOR 24/7 SOBRIETY MONITORING <--
8 PROGRAM; and providing for a study of driving under the
9 influence courts.

10 This act may be referred to as Deana's Law.

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

13 Section 1. Section 102 of Title 75 of the Pennsylvania
14 Consolidated Statutes is amended by adding a definition to read:
15 § 102. Definitions.

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

1 * * *
2 "Continuous alcohol monitoring device" or "CAM device." A
3 monitoring device or instrument that:
4 (1) is attached to the ~~person~~ INDIVIDUAL; <--
5 (2) is designed to automatically test the ~~alcohol~~ <--
6 ~~content in a person~~ PRESENCE OF ALCOHOL IN AN INDIVIDUAL by <--
7 contact with the skin of the ~~person~~ INDIVIDUAL at least once <--
8 per one-half hour regardless of the location on the ~~person~~ <--
9 INDIVIDUAL; <--
10 (3) detects the presence of alcohol; and
11 (4) detects an attempt to tamper with, obstruct or
12 remove the device or instrument.

13 * * *

14 Section 2. Section 1556(b)(2) of Title 75 is amended to
15 read:

16 § 1556. Ignition interlock limited license.

17 * * *

18 (b) Petition.--

19 * * *

20 (2) The petition shall also include proof of financial
21 responsibility covering each vehicle the applicant requests
22 to be permitted to operate. The department shall promulgate
23 regulations to require additional information as well as
24 additional evidence to verify the information contained in
25 the petition. Upon approval of the petition, the ignition
26 interlock device must be installed in any motor vehicle to be
27 operated by the individual, and proof of installation must be
28 provided by the ignition interlock device vendor.

29 * * *

30 Section 3. Section 3803(b)(3) and (4.1) of Title 75 are

1 amended and the subsection is amended by adding a paragraph to
2 read:

3 § 3803. Grading.

4 * * *

5 (b) Other offenses.--

6 * * *

7 (3) An individual who violates section 3802(a)(1) where
8 there was an accident resulting in bodily injury, serious
9 bodily injury or death of any person or in damage to a
10 vehicle or other property, or who violates section [3802(b),
11 (e)] 3802(e) or (f) and who has two prior offenses commits a
12 misdemeanor of the first degree.

13 (3.1) An individual who violates section 3802(b) and who
14 has two prior offenses commits a felony of the third degree.

15 * * *

16 (4.1) An individual who violates section 3802(a)(1)
17 where the individual refused testing of breath or chemical
18 testing pursuant to a valid search warrant, court order or
19 any other basis permissible by the Constitution of the United
20 States and the Constitution of Pennsylvania, or who violates
21 section 3802(c) or (d) [and who] commits:

22 (i) A felony of the third degree if the individual
23 has two [or more] prior offenses [commits a felony of the
24 third degree].

25 (ii) A felony of the second degree if the individual
26 has three prior offenses.

27 (iii) A felony of the first degree if the individual
28 has four or more prior offenses.

29 * * *

30 Section 4. Section 3804 of Title 75 is amended by adding a

1 subsection to read:

2 § 3804. Penalties.

3 * * *

4 (c.2) Consecutive sentence.--A sentence imposed upon a
5 person under this section for a third or subsequent offense
6 shall be served consecutively to any other sentence the person
7 is serving and to any other sentence being then imposed by the
8 court.

9 * * *

10 Section 5. Section 3805(c) and (h.2) of Title 75 are amended
11 to read:

12 § 3805. Ignition interlock.

13 * * *

14 (c) Issuance of unrestricted license.--One year from the
15 date of issuance of an ignition interlock restricted license
16 under this section, or two years from the date of issuance of an
17 ignition interlock restricted license under this section in the
18 case of a person convicted of a third or subsequent offense
19 under section 3802, if otherwise eligible, a person may be
20 issued a replacement license under section 1951(d) that does not
21 contain the ignition interlock system restriction. The
22 department shall not issue an unrestricted license until a
23 person has presented all of the following:

24 (1) Proof that the person has completed the ignition
25 interlock restricted license period under this section.

26 (2) Certification by the vendor that provided the
27 ignition interlock device that the person has complied with
28 subsection (h.2).

29 * * *

30 (h.2) Declaration of compliance.--Restrictions imposed under

1 section 1556 (relating to ignition interlock limited license)
2 shall remain in effect until the department receives a
3 declaration from the person's ignition interlock device vendor,
4 in a form provided or approved by the department, certifying
5 that the following incidents have not occurred in the two
6 consecutive months prior to the date entered on the certificate,
7 and for the purposes of a suspension imposed under section
8 3807(d) (2), the person's ignition interlock device vendor shall
9 certify the following incidents have not occurred in the prior
10 30 days entered on the certificate:

11 (1) An attempt to start the vehicle with a breath
12 alcohol concentration of 0.08% or more, not followed within
13 10 minutes by a subsequent attempt with a breath alcohol
14 concentration lower than 0.08%.

15 (2) Failure to take or pass any required retest.

16 (3) Failure of the person to appear at the ignition
17 interlock system vendor when required for maintenance,
18 repair, calibration, monitoring, inspection or replacement of
19 the device such that the ignition interlock system no longer
20 functions as required under subsection (h).

21 If a violation under paragraph (1), (2) or (3) occurs, the
22 vendor shall notify the department as to the violation on a form
23 designated by the department, and the department shall notify
24 the person of the violation and that ignition interlock device
25 usage shall continue until no violations have occurred within a
26 60-day period.

27 * * *

28 Section 6. Section 3815(b) (2) of Title 75 is amended and the
29 section is amended by adding a subsection to read:

30 § 3815. Mandatory sentencing.

1 * * *

2 (b) Parole.--

3 * * *

4 (2) The following shall be conditions of parole:

5 (i) If the offender is not determined under the
6 procedures set forth in section 3814 to be addicted to
7 alcohol or another substance, the offender must refrain
8 from:

9 (A) the use of illegal controlled substances;

10 and

11 (B) the abuse of prescription drugs, over-the-
12 counter drugs or any other substances.

13 (ii) If the offender is determined under the
14 procedures set forth in section 3814 to be addicted to
15 alcohol or another substance, the offender must do all of
16 the following:

17 (A) Refrain from:

18 (I) the use of alcohol or illegal controlled
19 substances; and

20 (II) the abuse of prescription drugs, over-
21 the-counter drugs or any other substances.

22 (B) Participate in and cooperate with drug and
23 alcohol addiction treatment under subsection (c).

24 (iii) ~~An offender~~ AT THE COURT'S DISCRETION AND <--
25 CONSISTENT WITH SECTION 3818 (RELATING TO 24/7 SOBRIETY
26 MONITORING PROGRAM), AN INDIVIDUAL serving a sentence for
27 a violation of section 3802 who has two or more prior
28 offenses shall MAY be fitted with a continuous alcohol <--
29 monitoring CAM device for one year or for the duration of <--
30 the period of parole, whichever is less. Tampering with <--

~~or obstructing the CAM device shall constitute noncompliance with the conditions of parole. The payment of costs associated with the CAM device shall be determined in accordance with section 1557(b) and (c) (relating to continuous alcohol monitoring device). If on more than two occasions the CAM device detects that an offender's alcohol concentration is greater than 0.08%, the court may order the offender to participate in and cooperate with drug and alcohol addiction treatment.~~

~~(b.1) Probation. As a condition of a probation order, the court shall require an offender who has two or more prior offenses to be fitted with a continuous alcohol monitoring device for one year or for the duration of the period of probation, whichever is less. Tampering with or obstructing the CAM device shall constitute noncompliance with the conditions of probation. The payment of costs associated with the CAM device shall be determined in accordance with section 1557(b) and (c). If on more than two occasions the CAM device detects that an offender's alcohol concentration is greater than 0.08%, the court shall order the offender to participate in and cooperate with drug and alcohol addiction treatment.~~

~~* * *~~

~~Section 7. The Department of Transportation, in consultation with the Pennsylvania State Police and the Administrative Office of Pennsylvania Courts, shall evaluate the effectiveness of driving under the influence courts in this Commonwealth and submit a report with findings and recommendations to the Transportation Committee of the Senate and the Transportation Committee of the House of Representatives within six months of the effective date of this section.~~

1 (B.1) PROBATION.--AT THE COURT'S DISCRETION, AS A CONDITION <--
2 OF A PROBATION ORDER AND CONSISTENT WITH SECTION 3818, AN
3 INDIVIDUAL SERVING A SENTENCE FOR A VIOLATION OF SECTION 3802
4 WHO HAS TWO OR MORE PRIOR OFFENSES MAY BE FITTED WITH A CAM
5 DEVICE FOR ONE YEAR OR FOR THE DURATION OF THE PERIOD OF
6 PROBATION, WHICHEVER IS LESS.

7 * * *

8 SECTION 7. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
9 § 3818. 24/7 SOBRIETY MONITORING PROGRAM.

10 (A) ESTABLISHMENT.--A 24/7 SOBRIETY MONITORING PROGRAM IS
11 ESTABLISHED UNDER THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA.

12 (B) REQUIREMENTS.--THE USE OF OR PARTICIPATION IN A 24/7
13 SOBRIETY MONITORING PROGRAM IS REQUIRED IN ONE OR MORE OF THE
14 FOLLOWING FOR NO LESS THAN 90 DAYS AS A CONDITION OF BAIL WHILE
15 ADJUDICATION OF A VIOLATION OF SECTION 3802 (RELATING TO DRIVING
16 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE) IS PENDING
17 FOR AN INDIVIDUAL WHO HAS TWO OR MORE PRIOR OFFENSES:

18 (1) A CAM DEVICE OR ANY OTHER SIMILAR ALCOHOL MONITORING
19 TECHNOLOGY OR DEVICE AS DETERMINED BY THE COURT.

20 (2) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
21 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE AS DETERMINED BY
22 THE COURT.

23 (C) DETERMINATION AND COSTS TO BE PAID.--THE INDIVIDUAL
24 SHALL PAY FOR ALL COSTS ASSOCIATED WITH THE 24/7 SOBRIETY
25 MONITORING PROGRAM, INCLUDING ADMINISTRATIVE AND OPERATING COSTS
26 OR COSTS ASSOCIATED WITH ANY REQUIRED DEVICES OR TECHNOLOGIES.
27 THE COURT MAY AUTHORIZE THE COUNTY TO FINANCE COSTS ASSOCIATED
28 WITH THE 24/7 SOBRIETY MONITORING PROGRAM IF THE COURT, AT ANY
29 TIME, DETERMINES THE INDIVIDUAL LACKS THE FINANCIAL ABILITY TO
30 PAY ALL OR PART OF COSTS ASSOCIATED WITH A 24/7 SOBRIETY

1 MONITORING PROGRAM.

2 (D) FINANCIAL INQUIRY.--A COURT DETERMINATION UNDER
3 SUBSECTION (C) SHALL BE BASED ON AN APPROPRIATE INQUIRY INTO THE
4 FINANCIAL CIRCUMSTANCES OF THE INDIVIDUAL REQUIRED TO
5 PARTICIPATE IN A 24/7 SOBRIETY MONITORING PROGRAM AND AN
6 AFFIDAVIT OR CERTIFICATE, SIGNED BY THAT INDIVIDUAL,
7 DEMONSTRATING FINANCIAL INABILITY TO PAY ALL OR PART OF THE
8 COSTS ASSOCIATED WITH THE 24/7 SOBRIETY MONITORING PROGRAM.

9 (E) PROHIBITIONS.--AN INDIVIDUAL REQUIRED TO PARTICIPATE IN
10 A 24/7 SOBRIETY MONITORING PROGRAM IS PROHIBITED FROM ALL OF THE
11 FOLLOWING FOR THE DURATION OF THE 24/7 SOBRIETY MONITORING
12 PROGRAM:

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

15 (2) TAMPERING WITH DEVICES OR TECHNOLOGIES ASSOCIATED
16 WITH THE 24/7 SOBRIETY MONITORING PROGRAM.

17 (3) FAILING TO COMPLY WITH ANY OTHER REQUIREMENTS
18 ORDERED BY THE COURT AS PART OF THE 24/7 SOBRIETY MONITORING
19 PROGRAM.

20 SECTION 8. THE DEPARTMENT OF TRANSPORTATION, IN CONSULTATION
21 WITH THE PENNSYLVANIA STATE POLICE AND THE ADMINISTRATIVE OFFICE
22 OF PENNSYLVANIA COURTS, SHALL EVALUATE THE EFFECTIVENESS OF
23 DRIVING UNDER THE INFLUENCE COURTS IN THIS COMMONWEALTH AND
24 SUBMIT A REPORT WITH FINDINGS AND RECOMMENDATIONS TO THE
25 TRANSPORTATION COMMITTEE OF THE SENATE AND THE TRANSPORTATION
26 COMMITTEE OF THE HOUSE OF REPRESENTATIVES WITHIN SIX MONTHS OF
27 THE EFFECTIVE DATE OF THIS SECTION.

28 Section ~~8~~ 9. This act shall take effect in 120 days.

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