

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 37 Session of 2021

INTRODUCED BY R. BROWN, MALAGARI, BOBACK, SAPPEY, SANCHEZ, SCHLOSSBERG, STRUZZI, NEILSON, CIRESI, WEBSTER, SCHLEGEL CULVER AND MULLINS, FEBRUARY 16, 2021

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 23, 2021

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 learners' permits and for examination of applicant for
5 driver's license; in rules of the road in general, further
6 providing for prohibiting text-based communications,
7 providing for prohibiting use of interactive wireless
8 communications devices and imposing penalties; and, in
9 operation of vehicles miscellaneous provisions, further
10 providing for the offense of homicide by vehicle and for the
11 offense of aggravated assault by vehicle.

12 This act may be referred to as Paul Miller's Law.

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

15 Section 1. The definition of "interactive wireless
16 communications device" in section 102 of Title 75 of the
17 Pennsylvania Consolidated Statutes is amended to read:

18 § 102. Definitions.

19 Subject to additional definitions contained in subsequent
20 provisions of this title which are applicable to specific
21 provisions of this title, the following words and phrases when

1 used in this title shall have, unless the context clearly
2 indicates otherwise, the meanings given to them in this section:

3 * * *

4 "Interactive wireless communications device." A wireless
5 telephone, personal digital assistant, smart phone, portable or
6 mobile computer or similar device which can be used for voice
7 communication, texting, e-mailing, browsing the Internet [or],
8 instant messaging[,], playing games, taking or transmitting
9 images, recording or broadcasting videos, creating or sharing
10 social media or otherwise sending or receiving electronic data.

11 The term does not include any of the following:

12 (1) a device being used exclusively as a global
13 positioning or navigation system;

14 (2) a system or device that is physically or
15 electronically integrated into the vehicle[; or], except
16 being connected to the vehicle solely for the purpose of
17 charging the system or device;

18 (3) a [communications] device that is affixed to a mass
19 transit vehicle, bus or school bus[.];

20 (4) a MOBILE OR hand-held radio being used by a person <--
21 with an amateur radio station license issued by the Federal
22 Communications Commission;

23 (5) a device being used exclusively for emergency
24 notification purposes;

25 (6) a device being used exclusively by an emergency
26 service responder while operating an emergency vehicle and
27 engaged in the performance of duties; or

28 (7) a device being used exclusively by a commercial
29 driver who within the scope of the individual's employment
30 uses a device if the use is permitted under regulations

1 promulgated under 49 U.S.C. § 31136 (relating to United
2 States Government regulations).

3 * * *

4 Section 2. Section 1505(e)(2) of Title 75 is amended to
5 read:

6 § 1505. Learners' permits.

7 * * *

8 (e) Authorization to test for driver's license and junior
9 driver's license.--A person with a learner's permit is
10 authorized to take the examination for a regular or junior
11 driver's license for the class of vehicle for which a permit is
12 held. Before a person under the age of 18 years may take the
13 examination for a junior driver's license, including a Class M
14 license to operate a motorcycle, the minor must:

15 * * *

16 (2) Present to the department a certification form
17 signed by the father, mother, guardian, person in loco
18 parentis or spouse of a married minor stating that the minor
19 applicant has:

20 (i) completed 65 hours of practical driving
21 experience accompanied as required under subsection (b);
22 [and]

23 (ii) except for a Class M license to operate a
24 motorcycle, the 65 hours included no less than ten hours
25 of nighttime driving and five hours of inclement weather
26 driving[.]; and

27 (iii) viewed educational materials provided on the
28 department's publicly accessible Internet website on the
29 dangers of distracted driving, which may include, but are
30 not limited to, written, electronic or video materials.

1 * * *

2 Section 2.1. Section 1508 of Title 75 is amended by adding a
3 subsection to read:

4 § 1508. Examination of applicant for driver's license.

5 * * *

6 (c.1) Distracted driving awareness.--The portion of the
7 examination on traffic laws shall contain at least one question
8 on distracted driving relating to the driver's ability to
9 understand the effects of distracted driving. The driver's
10 manual shall include a section relating to distracted driving,
11 along with related penalties.

12 * * *

13 Section 3. Section 3316(a) and (d) of Title 75 are amended
14 to read:

15 § 3316. Prohibiting text-based communications.

16 (a) Prohibition.--[No driver shall operate a motor vehicle
17 on a highway or trafficway in this Commonwealth while using an
18 interactive wireless communications device to send, read or
19 write a text-based communication while the vehicle is in motion.
20 A person does not send, read or write a text-based communication
21 when the person reads, selects or enters a telephone number or
22 name in an interactive wireless communications device for the
23 purpose of activating or deactivating a voice communication or a
24 telephone call.] No driver shall operate a motor vehicle on a
25 highway or trafficway in this Commonwealth while physically
26 using an interactive wireless communications device to send,
27 read or write a text-based communication. A person does not
28 send, read or write a text-based communication when:

29 (1) the driver reads, selects or enters a telephone
30 number or name in an interactive wireless communications

1 device for the purposes of activating or deactivating a voice
2 communication or a telephone call; or

3 (2) the driver sends or receives the text-based
4 communication through a hands-free accessory or other system
5 or device integrated into the vehicle that allows for the
6 sending or receiving of text-based communications without the
7 need for the driver to touch the interactive wireless
8 communications device or read the text based communication.

9 * * *

10 (d) Penalty.--[A person who violates subsection (a) commits
11 a summary offense and shall, upon conviction, be sentenced to
12 pay a fine of \$50.] A person who violates subsection (a) commits
13 a summary offense and shall, upon conviction, be sentenced to
14 pay a fine of \$100. The following shall apply:

15 (1) No points shall be added to the record of a driver
16 on account of a violation of this section.

17 (2) No costs or surcharges imposed under section 6506
18 (relating to surcharge) or 42 Pa.C.S. Section 1725.1
19 (relating to costs) shall be assessed or imposed on a
20 conviction under this section.

21 * * *

22 Section 4. Title 75 is amended by adding a section to read:
23 § 3316.1. Prohibiting use of interactive wireless
24 communications devices.

25 (a) Prohibition.--No driver shall operate a motor vehicle on
26 a highway or trafficway in this Commonwealth while physically
27 holding or supporting with their body an interactive wireless
28 communications device, unless the motor vehicle is parked on the
29 side or shoulder of a highway or trafficway in this Commonwealth
30 where the motor vehicle is safely able to remain stationary.

1 (b) Seizure.--The provisions of this section shall not be
2 construed as authorizing the seizure or forfeiture of an
3 interactive wireless communications device unless otherwise
4 provided by law.

5 (c) Penalty.--A driver who violates subsection (a) commits a
6 summary offense and shall, upon conviction, be sentenced to pay
7 a fine of \$100. The following shall apply:

8 (1) No costs or surcharges imposed under section 6506
9 (relating to surcharge) or 42 Pa.C.S. § 1725.1 (relating to
10 costs) shall be assessed or imposed upon a conviction under
11 this section.

12 (2) No points shall be added to the record of a driver
13 on account of a violation of this section.

14 (d) Preemption of local ordinances.--In accordance with
15 section 6101 (relating to applicability and uniformity of
16 title), this section supersedes and preempts all ordinances of
17 any municipality with regard to the use of an interactive
18 wireless communications device by any driver of a motor vehicle.

19 (e) Law enforcement education.--The department, in
20 consultation with the Pennsylvania State Police, shall develop
21 and electronically distribute education materials for law
22 enforcement on how to effectively detect distracted drivers,
23 regardless of age, sex, race or ethnicity, who violate this
24 section.

25 (f) Warning period.--For the first six months after the
26 effective date of this section, a driver who violates subsection
27 (a) may only be issued a written warning for a violation.

28 (g) Prohibition on similar citations.--No person may be
29 charged with a violation of section 3316 (relating to
30 prohibiting text-based communications) concurrently with a

1 violation of subsection (a) for an offense committed at the same
2 time and place.

3 Section 5. Sections 3732(b)(1.1) and (3) and 3732.1(b)(2)
4 and (4) of Title 75, amended October 29, 2020 (P.L.1057,
5 No.105), are amended to read:

6 § 3732. Homicide by vehicle.

7 * * *

8 (b) Sentencing.--

9 * * *

10 (1.1) In addition to any other penalty provided by law,
11 a person convicted of a violation of subsection (a) who is
12 also convicted of a violation of section 1501 (relating to
13 drivers required to be licensed), 1543 (relating to driving
14 while operating privilege is suspended or revoked), 3316
15 (relating to prohibiting text-based communications), 3316.1
16 (relating to prohibiting use of interactive wireless
17 communications devices), 3325 (relating to duty of driver on
18 approach of emergency vehicle) or 3327 (relating to duty of
19 driver in emergency response areas and in relation to
20 disabled vehicles) may be sentenced to an additional term not
21 to exceed five years' confinement.

22 * * *

23 (3) The Pennsylvania Commission on Sentencing, pursuant
24 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
25 sentencing), shall provide for a sentencing enhancement for
26 an offense under this section when the violation occurred in
27 an active work zone or the individual was also convicted of a
28 violation of section 1501, 1543, 3316, 3316.1, 3325 or 3327.
29 § 3732.1. Aggravated assault by vehicle.

30 * * *

1 (b) Sentencing.--

2 * * *

3 (2) In addition to any other penalty provided by law, a
4 person convicted of a violation of subsection (a) who is also
5 convicted of a violation of section 1501 (relating to drivers
6 required to be licensed), 1543 (relating to driving while
7 operating privilege is suspended or revoked), 3316 (relating
8 to prohibiting text-based communications), 3316.1 (relating
9 to prohibiting use of interactive wireless communications
10 devices), 3325 (relating to duty of driver on approach of
11 emergency vehicle) or 3327 (relating to duty of driver in
12 emergency response areas and in relation to disabled
13 vehicles) may be sentenced to an additional term not to
14 exceed two years' confinement.

15 * * *

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 the individual was also convicted of a
21 violation of section 1501, 1543, 3316, 3316.1, 3325 or 3327.
22 Section 6. This act shall take effect in 180 days.