

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 521 Session of 2021

INTRODUCED BY STEPHENS, HILL-EVANS, THOMAS, NEILSON, MILLARD, HENNESSEY, BERNSTINE AND FREEMAN, FEBRUARY 11, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 5, 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 the offense of driving while operating privilege is suspended
5 or revoked; and, in driving after imbibing alcohol or
6 utilizing drugs, further providing for prior offenses, for
7 Accelerated Rehabilitative Disposition, FOR DRUG AND ALCOHOL <--
8 ASSESSMENTS and for mandatory sentencing and providing for
9 substance monitoring program.

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

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

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

20 \* \* \*

21 "Continuous alcohol monitoring device." A monitoring device

1 or instrument that:

2 (1) is attached to an individual;

3 (2) is designed to automatically and frequently test the  
4 presence of alcohol in the individual regardless of the  
5 method by which the device or instrument is attached to the  
6 individual;

7 (3) detects the presence of alcohol; and

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

10 \* \* \*

11 "Remote breath testing device." An unsupervised mobile  
12 breath testing device that:

13 (1) is not affixed to a motor vehicle;

14 (2) has the ability to confirm the identity and location  
15 of an individual; and

16 (3) detects the presence of alcohol.

17 \* \* \*

18 "Substance monitoring program." The court-ordered use of or  
19 participation in any one or both of the following as a condition  
20 of bail, probation or parole consistent with section 3818  
21 (relating to substance monitoring program):

22 (1) A continuous alcohol monitoring device, remote  
23 breath testing device or any other alcohol monitoring  
24 technology or device, as determined by the court.

25 (2) Random drug testing or any other controlled  
26 substance monitoring technology or device, as determined by  
27 the court.

28 \* \* \*

29 Section 2. Sections 1543(b)(1.1)(i) and 3806(b)(1) of Title  
30 75 are amended to read:

1 § 1543. Driving while operating privilege is suspended or  
2 revoked.

3 \* \* \*

4 (b) Certain offenses.--

5 \* \* \*

6 (1.1) (i) A person who has an amount of alcohol by  
7 weight in his blood that is equal to or greater than .02%  
8 at the time of testing or who at the time of testing has  
9 in his blood any amount of a Schedule I or nonprescribed  
10 Schedule II or III controlled substance, as defined in  
11 the act of April 14, 1972 (P.L.233, No.64), known as The  
12 Controlled Substance, Drug, Device and Cosmetic Act, or  
13 its metabolite or [who refuses testing of blood or  
14 breath] who refuses testing of breath under section 1547  
15 (relating to chemical testing to determine amount of  
16 alcohol or controlled substance) or chemical testing of  
17 blood pursuant to a valid search warrant, court order or  
18 any other basis permissible by the Constitution of the  
19 United States and the Constitution of Pennsylvania, and  
20 who drives a motor vehicle on any highway or trafficway  
21 of this Commonwealth at a time when the person's  
22 operating privilege is suspended or revoked as a  
23 condition of acceptance of Accelerated Rehabilitative  
24 Disposition for a violation of section 3802 or former  
25 section 3731 or because of a violation of section 1547(b)  
26 (1) or 3802 or former section 3731 or is suspended under  
27 section 1581 for an offense substantially similar to a  
28 violation of section 3802 or former section 3731 shall,  
29 upon a first conviction, be guilty of a summary offense  
30 and shall be sentenced to pay a fine of \$1,000 and to

1           undergo imprisonment for a period of not less than 90  
2           days.

3                   \* \* \*

4 § 3806. Prior offenses.

5                   \* \* \*

6           (b) Timing.--

7                   (1) For purposes of sections 1553(d.2) (relating to  
8           occupational limited license), 1556 (relating to ignition  
9           interlock limited license), 3803 (relating to grading), 3804  
10           (relating to penalties) [and], 3805 (relating to ignition  
11           interlock), 3815 (relating to mandatory sentencing) and 3818  
12           (relating to substance monitoring program), the prior offense  
13           must have occurred:

14                   (i) within 10 years prior to the date of the offense  
15                   for which the defendant is being sentenced; or

16                   (ii) on or after the date of the offense for which  
17                   the defendant is being sentenced.

18                   \* \* \*

19           ~~Section 3. Section 3807(a) of Title 75 is amended by adding <--~~  
20           ~~a paragraph to read:~~

21           SECTION 3. SECTION 3807(B) (4) OF TITLE 75 IS AMENDED AND <--  
22           SUBSECTION (A) IS AMENDED BY ADDING A PARAGRAPH TO READ:

23 § 3807. Accelerated Rehabilitative Disposition.

24           (a) Eligibility.--

25                   \* \* \*

26                   (3) Notwithstanding the procedures for Accelerated  
27                   Rehabilitative Disposition for other crimes, the attorney for  
28                   the Commonwealth shall not submit a charge brought under this  
29                   chapter for Accelerated Rehabilitative Disposition unless  
30                   all of the following apply:

1           (i) The defendant admits that the Commonwealth's  
2 evidence would prove the elements beyond a reasonable  
3 doubt under section 3802.

4           (ii) The defendant agrees that the defendant's  
5 admission may be used as a prior conviction for the  
6 purpose of increasing the grading and penalty of any  
7 subsequent offense under this title.

8           (iii) The defendant knowingly and voluntarily waives  
9 the defendant's right to challenge the use of the  
10 Accelerated Rehabilitative Disposition as a prior  
11 conviction for the purpose of enhancing the grading and  
12 sentencing of any subsequent offense under this title.

13 \* \* \*

14 (B) EVALUATION AND TREATMENT.--

<--

15 \* \* \*

16 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER  
17 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR  
18 ALL OF THE FOLLOWING:

19 (I) LENGTH OF STAY.

20 (II) LEVELS OF CARE.

21 (III) FOLLOW-UP CARE AND MONITORING.

22 (IV) THE USE OF MEDICATION-ASSISTED TREATMENT IN  
23 CONJUNCTION WITH BEHAVIORAL THERAPIES IF THE TREATMENT IS  
24 CLINICALLY APPROPRIATE.

25 \* \* \*

26 SECTION 4. SECTION 3814(4) OF TITLE 75 IS AMENDED TO READ:

27 § 3814. DRUG AND ALCOHOL ASSESSMENTS.

28 IF A DEFENDANT IS CONVICTED OR PLEADS GUILTY OR NO CONTEST TO  
29 A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE  
30 OF ALCOHOL OR CONTROLLED SUBSTANCE), THE FOLLOWING APPLY PRIOR

1 TO SENTENCING:

2 \* \* \*

3 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER  
4 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR  
5 ALL OF THE FOLLOWING:

6 (I) LENGTH OF STAY.

7 (II) LEVELS OF CARE.

8 (III) FOLLOW-UP CARE AND MONITORING.

9 (IV) THE USE OF MEDICATION-ASSISTED TREATMENT IN  
10 CONJUNCTION WITH BEHAVIORAL THERAPIES IF THE TREATMENT IS  
11 CLINICALLY APPROPRIATE.

12 Section 4 5. Section 3815(b) (2) of Title 75 is amended and <--  
13 the section is amended by adding a subsection to read:

14 § 3815. Mandatory sentencing.

15 \* \* \*

16 (b) Parole.--

17 \* \* \*

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

19 (i) If the offender is not determined under the  
20 procedures set forth in section 3814 to be addicted to  
21 alcohol or another substance, the offender must refrain  
22 from:

23 (A) the use of illegal controlled substances;

24 and

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

27 (ii) If the offender is determined under the  
28 procedures set forth in section 3814 to be addicted to  
29 alcohol or another substance, the offender must do all of  
30 the following:

1 (A) Refrain from:  
2 (I) the use of alcohol or illegal controlled  
3 substances; and

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

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

8 (iii) In addition to any other condition or  
9 restriction imposed, an individual who violates section  
10 3802 and who has one or more prior offenses may be  
11 ordered by the court to participate in a substance  
12 monitoring program under section 3818 (relating to  
13 substance monitoring program).

14 (b.1) Probation.--In addition to any other condition or  
15 restriction imposed, an individual who violates section 3802 and  
16 who has one or more prior offenses may be ordered by the court  
17 to participate in a substance monitoring program as a condition  
18 of probation under section 3818.

19 \* \* \*

20 Section 5 6. Title 75 is amended by adding a section to <--  
21 read:

22 § 3818. Substance monitoring program.

23 (a) Evaluation required.--

24 (1) In all of the following circumstances, in addition  
25 to any other condition or restriction imposed, an individual  
26 shall be evaluated by a court to determine whether, at the  
27 court's discretion, the individual may be ordered to  
28 participate in a substance monitoring program:

29 (i) While adjudication of a violation of section  
30 3802 (relating to driving under influence of alcohol or

1 controlled substance) is pending for an individual who  
2 has one or more prior offenses.

3 (ii) While adjudication of two or more violations of  
4 section 3802 are concurrently pending for an individual.

5 (iii) As a condition of probation or parole where  
6 the individual violates section 3802 and has one or more  
7 prior offenses.

8 (2) The court may use the assessment from section 3814  
9 (relating to drug and alcohol assessments) to satisfy the  
10 requirement under paragraph (1).

11 (b) Monitoring devices and technologies.--

12 (1) A substance monitoring program shall include a  
13 requirement that the individual use or participate in one or  
14 both of the following, as determined by the court:

15 (i) A continuous alcohol monitoring device, remote  
16 breath testing device or any other similar alcohol  
17 monitoring technology or device, other than an ignition  
18 interlock system, as determined by the court.

19 (ii) Random drug testing or any other controlled  
20 substance monitoring technology or device as determined  
21 by the court.

22 (2) When determining the devices or technologies to be  
23 used under paragraph (1), the court shall consider:

24 (i) the individual's prior offenses;

25 (ii) the individual's most recent violation of  
26 section 3802;

27 (iii) any pending adjudication of the individual for  
28 a violation of section 3802;

29 (iv) in consultation with the county, the monitoring  
30 devices and technologies available to or utilized by the



1           county; and <--

2           (V) THE INDIVIDUAL'S ABILITY TO PAY THE COSTS OF <--  
3           PARTICIPATION IN THE SUBSTANCE MONITORING PROGRAM,  
4           INCLUDING COSTS ASSOCIATED WITH ANY REQUIRED DEVICE OR  
5           TECHNOLOGY; AND

6           ~~(v)~~ (VI) any other factor deemed appropriate by the <--  
7           court.

8           ~~(c) Determination and costs to be paid. If the court orders~~ <--  
9           ~~an individual to participate in a substance monitoring program,~~  
10           ~~the individual shall pay for costs associated with the~~  
11           ~~individual's participation in the substance monitoring program,~~  
12           ~~including costs associated with any required device or~~  
13           ~~technology.~~

14           (C) DETERMINATION AND COSTS TO BE PAID.--IF THE COURT ORDERS <--  
15           AN INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM,  
16           THE INDIVIDUAL SHALL PAY FOR COSTS ASSOCIATED WITH THE  
17           INDIVIDUAL'S PARTICIPATION IN THE SUBSTANCE MONITORING PROGRAM,  
18           INCLUDING COSTS ASSOCIATED WITH ANY REQUIRED DEVICE OR  
19           TECHNOLOGY. AN INDIVIDUAL ORDERED TO PARTICIPATE IN A SUBSTANCE  
20           MONITORING PROGRAM MAY NOT BE PREVENTED FROM BEING RELEASED ON  
21           BAIL, PROBATION OR PAROLE SOLELY BECAUSE OF THEIR INABILITY TO  
22           PAY THE COSTS OF THE SUBSTANCE MONITORING PROGRAM.

23           (d) Prohibitions.--An individual ordered to participate in a  
24           substance monitoring program is prohibited from all of the  
25           following for the duration of the substance monitoring program:

26           (1) Imbibing alcohol or using controlled substances, or  
27           both, as determined by the court.

28           (2) Tampering with any device or technology associated  
29           with the substance monitoring program.

30           (3) Failing to comply with any other requirement ordered

1 by the court as part of the substance monitoring program.

2 (e) Construction.--Nothing in this section shall be

3 construed to prohibit a court from ordering:

4 (1) An individual pending adjudication for a single  
5 violation of section 3802 with no prior offenses to  
6 participate in a substance monitoring program as a condition  
7 of bail.

8 (2) An individual convicted of a violation of section  
9 3802 who has no prior offenses to participate in a substance  
10 monitoring program as a condition of probation or parole.

11 Section 6 7. This act shall take effect as follows: <--

12 (1) The following provisions shall take effect  
13 immediately:

14 (i) The addition of 75 Pa.C.S. § 3807(a) (3).

15 (ii) This section.

16 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 60 <--  
17 DAYS:

18 (I) THE AMENDMENT OF 75 PA.C.S. § 3807(B) (4).

19 (II) THE AMENDMENT OF 75 PA.C.S. § 3814(4).

20 ~~(2)~~ (3) The remainder of this act shall take effect in <--  
21 120 days.