

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 167 Session of 2021

INTRODUCED BY BARTOLOTTA, KEARNEY, STREET, STEFANO, CAPPELLETTI, BLAKE, SCHWANK, TARTAGLIONE, REGAN, COSTA, BOSCOLA, MUTH, SCAVELLO, FONTANA, FLYNN, LAUGHLIN AND A. WILLIAMS, FEBRUARY 5, 2021

SENATOR LANGERHOLC, TRANSPORTATION, AS AMENDED, JUNE 28, 2022

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in commercial drivers, further providing for
3 definitions; and, in driving after imbibing alcohol or
4 utilizing drugs, further providing for driving under
5 influence of alcohol or controlled substance and for
6 authorized use not a defense. <--

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

9 Section 1. The definition of "controlled substance" in
10 section 1603 of Title 75 of the Pennsylvania Consolidated
11 Statutes is amended to read: <--

12 § 1603. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 * * *

17 "Controlled substance." Any substance so defined or
18 classified, except marijuana used lawfully in accordance with
19 the act of April 17, 2016 (P.L.84, No.16), known as the Medical

1 ~~Marijuana Act, under:~~

2 ~~(1) The act of April 14, 1972 (P.L.233, No.64), known as~~
3 ~~The Controlled Substance, Drug, Device and Cosmetic Act.~~

4 ~~(2) Section 102(6) of the Controlled Substance Act~~
5 ~~(Public Law 91-513, 21 U.S.C. § 802(6)).~~

6 ~~(3) Schedules I through V of 21 CFR Part 1308.~~

7 ~~(4) Any revisions to paragraphs (2) or (3) which are~~
8 ~~published by the Department of Transportation as notices in~~
9 ~~the Pennsylvania Bulletin.~~

10 * * *

11 ~~Section 2. Section 3802(d)(1)(i) of Title 75 is amended and~~
12 ~~(d) is amended by adding a paragraph to read:~~

13 SECTION 1. SECTION 3802 OF TITLE 75 OF THE PENNSYLVANIA <--
14 CONSOLIDATED STATUTES IS AMENDED BY ADDING SUBSECTIONS TO READ:
15 § 3802. Driving under influence of alcohol or controlled
16 substance.

17 * * *

18 ~~(d) Controlled substances. An individual may not drive, <--~~
19 ~~operate or be in actual physical control of the movement of a~~
20 ~~vehicle under any of the following circumstances:~~

21 ~~(1) There is in the individual's blood any amount of a:~~

22 ~~(i) Schedule I controlled substance, as defined in~~
23 ~~the act of April 14, 1972 (P.L.233, No.64), known as The~~
24 ~~Controlled Substance, Drug, Device and Cosmetic Act,~~
25 ~~except marijuana used lawfully in accordance with the act~~
26 ~~of April 17, 2016 (P.L.84, No.16), known as the Medical~~
27 ~~Marijuana Act;~~

28 * * *

29 ~~(5) If the individual is a medical marijuana patient in~~
30 ~~compliance with the provisions of the Medical Marijuana Act,~~

~~proof of actual impairment shall be required.~~

(D.1) PROOF OF ACTUAL IMPAIRMENT.--FOR THE PURPOSES OF <--
SUBSECTION (D), IF AN INDIVIDUAL IS A MEDICAL MARIJUANA PATIENT
IN COMPLIANCE WITH THE PROVISIONS OF THE ACT OF APRIL 17, 2016
(P.L.84, NO.16), KNOWN AS THE MEDICAL MARIJUANA ACT, PROOF OF
ACTUAL IMPAIRMENT SHALL BE REQUIRED IF THE INDIVIDUAL IS UNABLE
TO SAFELY DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF A
VEHICLE. VALID CERTIFICATION TO USE MEDICAL MARIJUANA UNDER THE
MEDICAL MARIJUANA ACT SHALL NOT, IN AND OF ITSELF, BE SUFFICIENT
EVIDENCE FOR A CONVICTION UNDER THIS SECTION.

(D.2) MEDICAL MARIJUANA.--THE FOLLOWING SHALL APPLY:

(1) A MEDICAL MARIJUANA PATIENT CONVICTED OF OPERATING A
VEHICLE WHILE IMPAIRED TO A DEGREE THAT THE INDIVIDUAL IS
UNABLE TO SAFELY DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL
CONTROL OF THE VEHICLE SHALL BE PENALIZED UNDER SECTION
3804(C) (RELATING TO PENALTIES).

(2) POSSESSION OF A MEDICAL MARIJUANA PATIENT
IDENTIFICATION CARD SHALL NOT, IN AND OF ITSELF, BE
SUFFICIENT TO ESTABLISH PROBABLE CAUSE TO CHARGE THE
INDIVIDUAL WITH A VIOLATION OF THIS SECTION.

(3) POSSESSION OF A MEDICAL MARIJUANA PATIENT
IDENTIFICATION SHALL NOT, IN AND OF ITSELF, ESTABLISH
REASONABLE GROUNDS TO REQUEST A CHEMICAL TEST UNDER SECTION
1547 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF
ALCOHOL OR CONTROLLED SUBSTANCE).

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
SUPERSEDE FEDERAL REGULATION OF THE LICENSING AND OPERATION
OF COMMERCIAL VEHICLES AND SCHOOL VEHICLES.

* * *

Section 3 2. Section 3810 of Title 75 is amended to read: <--

1 § 3810. Authorized use not a defense.

2 The fact that a person charged with violating this chapter is
3 or has been legally entitled to use alcohol [or], controlled
4 substances or marijuana in compliance with the act of April 17,
5 2016 (P.L.84, No.16), known as the Medical Marijuana Act, is not
6 a defense to a charge of violating this chapter.

7 Section ~~4~~ 3. This act shall take effect in 60 days.

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