

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 37 Session of 2023

INTRODUCED BY BROWN, LANGERHOLC, FLYNN, STEFANO, SCHWANK, SANTARSIERO AND CULVER, APRIL 10, 2023

AS AMENDED ON THIRD CONSIDERATION, JUNE 21, 2023

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 and for schedule of convictions and points; <--
6 in rules of the road in general, further providing for
7 prohibiting text-based communications and providing for
8 prohibiting use of interactive mobile device; in
9 miscellaneous provisions relating to serious traffic
10 offenses, further providing for the offense of homicide by
11 vehicle and for the offense of aggravated assault by vehicle;
12 and imposing penalties.

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

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

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

19 § 102. Definitions.

20 Subject to additional definitions contained in subsequent
21 provisions of this title which are applicable to specific
22 provisions of this title, the following words and phrases when
23 used in this title shall have, unless the context clearly

1 indicates otherwise, the meanings given to them in this section:

2 * * *

3 "Interactive [wireless communications] mobile device." A
4 HANDHELD wireless telephone, personal digital assistant, smart <--
5 phone, portable or mobile computer or similar device which can
6 be used for voice communication, texting, [e-mailing] emailing,
7 browsing the Internet [or], instant messaging[.], playing games,
8 taking or transmitting images, recording or broadcasting videos,
9 creating or sharing social media or otherwise sending or
10 receiving electronic data. The term does not include any of the
11 following:

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

14 (2) a [system or] device that is BEING USED IN A HANDS- <--
15 FREE MANNER OR WITH A HANDS-FREE ACCESSORY OR SYSTEM,
16 INCLUDING ONE THAT IS physically or electronically integrated
17 into the vehicle; [or]

18 ~~(2.1) a device that is connected to the vehicle solely <--~~
19 ~~for the purpose of charging the system or device;~~

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

22 (4) a mobile or handheld radio being used by a person
23 with an amateur radio station license issued by the Federal
24 Communications Commission;

25 (5) a device being used exclusively for emergency
26 notification purposes;

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

30 (7) a device being used exclusively by a commercial

1 driver who within the scope of the individual's employment
2 uses a device if the use is permitted under regulations
3 promulgated under 49 U.S.C. § 31136 (relating to United
4 States Government regulations).

5 * * *

6 Section 2. Section 1505(e)(2) of Title 75 is amended to
7 read:

8 § 1505. Learners' permits.

9 * * *

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

17 * * *

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

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

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

29 (iii) printed, at the department's discretion, or
30 viewed educational materials provided on the department's

1 publicly accessible Internet website on the dangers of
2 distracted driving, which may include, but are not
3 limited to, written, electronic or video materials.

4 * * *

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

7 § 1508. Examination of applicant for driver's license.

8 * * *

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

15 * * *

16 ~~Section 4. Sections 1535(a) and 3316 of Title 75 are amended <--~~
17 ~~to read:~~

18 ~~§ 1535. Schedule of convictions and points.~~

19 ~~(a) General rule. A point system for driver education and~~
20 ~~control is hereby established which is related to other~~
21 ~~provisions for use, suspension and revocation of the operating~~
22 ~~privilege as specified under this title. Every driver licensed~~
23 ~~in this Commonwealth who is convicted of any of the following~~
24 ~~offenses shall be assessed points as of the date of violation in~~
25 ~~accordance with the following schedule:~~

26	Section Number	Offense	Points
27	1512	Violation of restriction on	
28	-	driver's license.	2
29	1571	Violation concerning license.	3
30	3102	Failure to obey policeman or	2

1	-	authorized person.	
2	3111.1	Obedience to traffic control	
3		devices warning of hazardous	
4		conditions.	2
5	3112(a)(3)(i)	Failure to stop for a red	
6	or (ii)	light.	3
7	3114(a)(1)	Failure to stop for a flashing	
8	-	red light.	3
9	3302	Failure to yield half of	
10	-	roadway to oncoming vehicle.	3
11	3303	Improper passing.	3
12	3304	Other improper passing.	3
13	3305	Other improper passing.	3
14	3306(a)(1)	Other improper passing.	4
15	3306(a)(2)	Other improper passing.	3
16	3306(a)(3)	Other improper passing.	3
17	3307	Other improper passing.	3
18	3310	Following too closely.	3
19	<u>3316(d)(3)</u>	<u>Text-based communications</u>	<u>2</u>
20	<u>3316.1(d)(3)</u>	<u>Use of interactive mobile</u>	
21		<u>device</u>	<u>2</u>
22	3321	Failure to yield to driver on	
23	-	the right at intersection.	3
24	3322	Failure to yield to oncoming	
25	-	driver when making left turn.	3
26	3323(b)	Failure to stop for stop sign.	3
27	3323(c)	Failure to yield at yield	
28	-	sign.	3
29	3324	Failure to yield when entering	
30	-	or crossing roadway between	

1	-	intersections.	3
2	3327(a) or	Duty of driver in emergency	
3	(a.1)	response area and in relation	
4		to disabled vehicles.	2
5	3332	Improper turning around.	3
6	3341(a)	Failure to obey signal	
7	-	indicating approach of train.	2
8	3341(b)	Failure to comply with	
9	-	crossing gate or barrier.	4
10	-	(and 30 days' suspension)	
11	3342(b) or (c)	Failure to stop at railroad	
12	-	crossings.	4
13	3344	Failure to stop when entering	
14	-	from alley, driveway or	
15	-	building.	3
16	3345(a)	Failure to stop for school bus	
17	-	with flashing red lights.	5
18	-	(and 60 days' suspension)	
19	3361	Driving too fast for	
20	-	conditions.	2
21	3362	Exceeding maximum speed. Over	
22	-	Limit:	
23	-	6-10	2
24	-	11-15	3
25	-	16-25	4
26	-	26-30	5
27	-	31-over	5
28	-	(and departmental hearing	
29	-	and sanctions provided	
30	-	under section 1538(d))	

1	3365(b)	Exceeding special speed limit	
2	-	in school zone.	3
3	-	(and 60 days' suspension	
4	-	for a second or subsequent	
5	-	offense)	
6	3365(c)	Exceeding special speed limit	
7	-	for trucks on downgrades.	3
8	3542(a)	Failure to yield to pedestrian	
9	-	in crosswalk.	2
10	3547	Failure to yield to pedestrian	
11	-	on sidewalk.	3
12	3549(a)	Failure to yield to blind	
13	-	pedestrian.	3
14	3702	Improper backing.	3
15	3714(a)	Careless driving.	3
16	3745	Leaving scene of accident	
17	-	involving property damage	
18	-	only.	4

19 * * *

20 SECTION 4. SECTION 3316 OF TITLE 75 IS AMENDED TO READ: <--

21 § 3316. Prohibiting text-based communications.

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

1 (b) (Reserved).

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

6 (d) Penalty.--A person who violates subsection (a) commits a
7 summary offense and shall, upon conviction, be sentenced to pay
8 a fine of \$50.

9 (e) Preemption of local ordinances.--In accordance with
10 section 6101 (relating to applicability and uniformity of
11 title), this section supersedes and preempts all ordinances of
12 any municipality with regard to the use of an interactive
13 wireless communications device by the driver of a motor vehicle.

14 (f) Definition.--As used in this section, the term "text-
15 based communication" means a text message, instant message,
16 electronic mail or other written communication composed or
17 received on an interactive wireless communications device.]

18 Except as provided in subsection (c), a driver may not engage in
19 texting while driving a motor vehicle.

20 (b) Employer.--Except as provided under subsection (c), an
21 employer may not permit or require a driver of the employer to
22 engage in texting while driving a motor vehicle.

23 (c) Emergency use exception.--Texting while driving shall be
24 permissible by a driver of a motor vehicle if necessary to
25 communicate with a law enforcement official or other emergency
26 services to prevent injury to persons or property.

27 (d) Penalties.--Except as provided for in subsection (e), a
28 person who violates this section commits a summary offense. The
29 following shall apply:

30 (1) For a first conviction with no conviction of and no

1 plea of no contest accepted to a charge of violating this
2 section within the previous 60-month period, as measured from
3 the dates any previous convictions were obtained or pleas of
4 no contest were accepted to the date the current conviction
5 is obtained or plea of no contest is accepted, a fine of not
6 more than \$150 shall be imposed.

7 (2) For a second conviction within a 60-month period of
8 time, as measured from the dates any previous convictions
9 were obtained or pleas of no contest were accepted to the
10 date the current conviction is obtained or plea of no contest
11 is accepted, a fine of not more than \$250.

12 (3) For a third or subsequent conviction within a 60-
13 month period of time, as measured from the dates any previous
14 convictions were obtained or pleas of no contest were
15 accepted to the date the current conviction is obtained or
16 plea of no contest is accepted, a fine of not more than \$500, <--
17 two points and suspension of the offender's driver's license
18 for a period of 60 days shall be imposed.

19 (e) Warning period.--For the first 12 months after the
20 effective date of this subsection, a driver who violates
21 subsection (a) may only be issued a written warning for a
22 violation.

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

29 (g) Prohibition on similar citations.--A person may not be
30 charged with a violation of section 3316.1 (relating to

1 prohibiting use of interactive mobile device) concurrently with
2 a violation of subsection (a) for an offense committed at the
3 same time and place.

4 (h) Definitions.--As used in this section, the following
5 words and phrases shall have the meanings given to them in this
6 subsection unless the context clearly indicates otherwise:

7 "Driving." Operating a motor vehicle on a highway, including
8 while the motor vehicle is temporarily stationary because of
9 traffic, a traffic control device or other momentary delay. The
10 term does not include operating a motor vehicle if the driver
11 moved the vehicle to the side of or off of a highway and halted
12 in a location where the vehicle can safely remain stationary.

13 "Electronic device." The term includes, but is not limited
14 to, a cellular telephone, personal digital assistant, pager,
15 computer or any other device used to input, write, send, receive
16 or read text or images.

17 "Texting." Manually entering alphanumeric text into or
18 reading text from an electronic device. The following shall
19 apply:

20 (1) The term includes, but is not limited to, short
21 message service, emailing, instant messaging, a command or
22 request to access an Internet web page, pressing more than a
23 single button to initiate or terminate a voice communication
24 using a mobile telephone or engaging in any other form of
25 electronic text retrieval or entry, for present or future
26 communication.

27 (2) The term does not include:

28 (i) Inputting, selecting or reading information on a
29 global positioning system or navigation system.

30 (ii) Pressing a single button to initiate or

1 terminate a voice communication using a mobile telephone.

2 (iii) Using a device capable of performing multiple
3 functions, including fleet management systems,
4 dispatching devices, citizens band radios and music
5 players, for a purpose that is not prohibited by this
6 section.

7 Section 5. Title 75 is amended by adding a section to read:
8 § 3316.1. Prohibiting use of interactive mobile device.

9 (a) Motor vehicle.--Except as provided under subsection (c),
10 a driver may not use an interactive mobile device while driving
11 a motor vehicle.

12 (b) Employer.--Except as provided under subsection (c), an
13 employer may not permit or require a driver of the employer to
14 use an interactive mobile device while driving a motor vehicle.

15 (c) Emergency use exception.--Using an interactive mobile
16 device shall be permissible by a driver of a motor vehicle if
17 necessary to communicate with a law enforcement official or
18 other emergency services to prevent injury to persons or
19 property.

20 (d) Penalties.--Except as provided for in subsection (g), a
21 person who violates this section commits a summary offense. The
22 following shall apply:

23 (1) For a first conviction with no conviction of and no
24 plea of no contest accepted to a charge of violating this
25 section within the previous 60-month period, as measured from
26 the dates any previous convictions were obtained or pleas of
27 no contest were accepted to the date the current conviction
28 is obtained or plea of no contest is accepted, a fine of not
29 more than \$150 shall be imposed.

30 (2) For a second conviction within a 60-month period of

1 time, as measured from the dates any previous convictions
2 were obtained or pleas of no contest were accepted to the
3 date the current conviction is obtained or plea of no contest
4 is accepted, a fine of not more than \$250.

5 (3) For a third or subsequent conviction within a 60-
6 month period of time, as measured from the dates any previous
7 convictions were obtained or pleas of no contest were
8 accepted to the date the current conviction is obtained or
9 plea of no contest is accepted, a fine of not more than \$500, ~~<--~~
10 ~~two points and suspension of the offender's driver's license~~
11 ~~for a period of 60 days shall be imposed.~~

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

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

23 (g) Warning period.--For the first 12 months after the
24 effective date of this subsection, a driver who violates
25 subsection (a) may only be issued a written warning for a
26 violation.

27 (h) Prohibition on similar citations.--A person may not be
28 charged with a violation of section 3316 (relating to
29 prohibiting text-based communications) concurrently with a
30 violation of subsection (a) for an offense committed at the same

1 time and place.

2 (i) Definitions.--As used in this section, the following
3 words and phrases shall have the meanings given to them in this
4 subsection unless the context clearly indicates otherwise:

5 "Driving." Operating a motor vehicle on a highway, including
6 while the motor vehicle is temporarily stationary because of
7 traffic, a traffic control device or other momentary delay. The
8 term does not include operating a motor vehicle if the driver
9 moved the vehicle to the side of or off of a highway and halted
10 in a location where the vehicle can safely remain stationary.

11 "Use an interactive mobile device." As follows:

12 (1) Using at least one hand to hold, or supporting with
13 another part of the body, an interactive mobile device to <--
14 conduct a voice communication.

15 (2) Dialing or answering an interactive mobile device by
16 pressing more than a single button.

17 (3) Reaching for an interactive mobile device in a
18 manner that requires a driver to maneuver so that the driver
19 is no longer in a seated driving position, restrained by a
20 seat belt that is installed in accordance with 49 CFR 393.93
21 (relating to seats, seat belt assemblies, and seat belt
22 assembly anchorages) and adjusted in accordance with the
23 vehicle manufacturer's instructions.

24 Section 6. Sections 3732(b)(1.1) and (3) and 3732.1(b)(2)
25 and (4) of Title 75 are amended to read:

26 § 3732. Homicide by vehicle.

27 * * *

28 (b) Sentencing.--

29 * * *

30 (1.1) In addition to any other penalty provided by law,

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

12 * * *

13 (3) The Pennsylvania Commission on Sentencing, pursuant
14 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
15 sentencing), shall provide for a sentencing enhancement for
16 an offense under this section when the violation occurred in
17 an active work zone or the individual was also convicted of a
18 violation of section 1501, 1543, 3316, 3316.1, 3325 or 3327.
19 § 3732.1. Aggravated assault by vehicle.

20 * * *

21 (b) Sentencing.--

22 * * *

23 (2) In addition to any other penalty provided by law, a
24 person convicted of a violation of subsection (a) who is also
25 convicted of a violation of section 1501 (relating to drivers
26 required to be licensed), 1543 (relating to driving while
27 operating privilege is suspended or revoked), 3316 (relating
28 to prohibiting text-based communications), 3316.1 (relating
29 to prohibiting use of interactive mobile device), 3325
30 (relating to duty of driver on approach of emergency vehicle)

1 or 3327 (relating to duty of driver in emergency response
2 areas and in relation to disabled vehicles) may be sentenced
3 to an additional term not to exceed two years' confinement.

4 * * *

5 (4) The Pennsylvania Commission on Sentencing, under 42
6 Pa.C.S. § 2154 (relating to adoption of guidelines for
7 sentencing), shall provide for a sentencing enhancement for
8 an offense under this section when the violation occurred in
9 an active work zone or the individual was also convicted of a
10 violation of section 1501, 1543, 3316, 3316.1, 3325 or 3327.
11 Section 7. This act shall take effect in 12 months.