

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 363 Session of 2023

INTRODUCED BY BARTOLOTTA, LAUGHLIN, STEFANO, COSTA, SCHWANK, DILLON, KANE, REGAN, STREET, TARTAGLIONE, MUTH AND KEARNEY, FEBRUARY 21, 2023

SENATOR LANGERHOLC, TRANSPORTATION, AS AMENDED, DECEMBER 12, 2023

AN ACT

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

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

8 Section 1. Section 3802 of Title 75 of the Pennsylvania <--
9 Consolidated Statutes is amended by adding subsections to read:

10 SECTION 1. SECTION 3802(D) OF TITLE 75 OF THE PENNSYLVANIA <--
11 CONSOLIDATED STATUTES IS AMENDED BY ADDING PARAGRAPHS TO READ:

12 § 3802. Driving under influence of alcohol or controlled
13 substance.

14 \* \* \*

15 (d.1) Proof of actual impairment. For the purposes of <--
16 subsection (d), if an individual is a medical marijuana patient
17 in compliance with the provisions of the act of April 17, 2016
18 (P.L.84, No.16), known as the Medical Marijuana Act, proof of

~~1 actual impairment shall be required if the individual is unable  
2 to safely drive, operate or be in actual physical control of a  
3 vehicle. Valid certification to use medical marijuana under the  
4 Medical Marijuana Act shall not, in and of itself, be sufficient  
5 evidence for a conviction under this section.~~

~~6 (d.2) Medical marijuana.~~

~~7 (1) A medical marijuana patient convicted of operating a  
8 vehicle while impaired to a degree that the individual is  
9 unable to safely drive, operate or be in actual physical  
10 control of the vehicle shall be penalized under section  
11 3804(c) (relating to penalties).~~

~~12 (2) Possession of a medical marijuana patient  
13 identification card shall not, in and of itself, be  
14 sufficient to establish probable cause to charge the  
15 individual with a violation of this section.~~

~~16 (3) Possession of a medical marijuana patient  
17 identification card shall not, in and of itself, establish  
18 reasonable grounds to request a chemical test under section  
19 1547 (relating to chemical testing to determine amount of  
20 alcohol or controlled substance).~~

~~21 (4) Nothing in this section shall be construed to  
22 supersede Federal regulation of the licensing and operation  
23 of commercial vehicles and school vehicles.~~

24 (D) CONTROLLED SUBSTANCES.--AN INDIVIDUAL MAY NOT DRIVE, <--  
25 OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A  
26 VEHICLE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

27 \* \* \*

28 (1.1) FOR THE PURPOSES OF THIS SUBSECTION, IF AN  
29 INDIVIDUAL IS A MEDICAL MARIJUANA PATIENT IN COMPLIANCE WITH  
30 THE PROVISIONS OF THE ACT OF APRIL 17, 2016 (P.L.84, NO.16),

1 KNOWN AS THE MEDICAL MARIJUANA ACT, PROOF OF ACTUAL  
2 IMPAIRMENT SHALL BE REQUIRED IF THE INDIVIDUAL IS UNABLE TO  
3 SAFELY DRIVE, OPERATE OR BE IN ACTUAL PHYSICAL CONTROL OF A  
4 VEHICLE. VALID CERTIFICATION TO USE MEDICAL MARIJUANA UNDER  
5 THE MEDICAL MARIJUANA ACT SHALL NOT, IN AND OF ITSELF, BE  
6 SUFFICIENT EVIDENCE FOR A CONVICTION UNDER THIS SECTION.

7 (1.2) (I) A MEDICAL MARIJUANA PATIENT CONVICTED OF  
8 OPERATING A VEHICLE WHILE IMPAIRED TO A DEGREE THAT THE  
9 INDIVIDUAL IS UNABLE TO SAFELY DRIVE, OPERATE OR BE IN  
10 ACTUAL PHYSICAL CONTROL OF THE VEHICLE SHALL BE PENALIZED  
11 UNDER SECTION 3804(C) (RELATING TO PENALTIES).

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

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

21 (IV) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO  
22 SUPERSEDE FEDERAL REGULATION OF THE LICENSING AND  
23 OPERATION OF COMMERCIAL VEHICLES AND SCHOOL VEHICLES.

24 \* \* \*

25 Section 2. Section 3810 of Title 75 is amended to read:

26 § 3810. Authorized use not a defense.

27 The fact that a person charged with violating this chapter is  
28 or has been legally entitled to use alcohol [or], controlled  
29 substances or marijuana in compliance with the act of April 17,  
30 2016 (P.L.84, No.16), known as the Medical Marijuana Act, is not

1 a defense to a charge of violating this chapter.

2 Section 3. This act shall take effect in 60 days.