

No. 2017-30

AN ACT

SB 553

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in licensing of drivers, further providing for surrender of license, for period of disqualification, revocation or suspension of operating privilege, for driving while operating privilege is suspended or revoked, for chemical testing to determine amount of alcohol or controlled substance, for probationary license and for ignition interlock limited license; and, in driving after imbibing alcohol or utilizing drugs, further providing for penalties, for ignition interlock and for illegally operating a motor vehicle not equipped with ignition interlock.

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

Section 1. Sections 1540 and 1541(a) and (e) of Title 75 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1540. Surrender of license.

(a) **[Conviction of offense.—Upon a conviction by a court of competent jurisdiction for any offense which calls for mandatory suspension in accordance with section 1532 (relating to suspension of operating privilege), the court or the district attorney shall require the surrender of any driver's license then held by the defendant and shall forward the driver's license together with a record of the conviction to the department. The suspension shall be effective upon a date determined by the court or district attorney or upon the date of surrender of the license to the court or district attorney, whichever shall first occur.]** *Conviction of offense.—Upon a conviction by a court of competent jurisdiction for an offense which calls for mandatory suspension of an individual's operating privilege, the court or the district attorney shall inform the defendant that the suspension shall be effective within 60 days. This section shall create a rebuttable presumption of the defendant's knowledge of the suspension for the purposes of section 1543 (relating to driving while operating privilege is suspended or revoked).*

(b) Suspension, revocation or disqualification of operating privilege.—

(1) Upon the suspension or revocation of the operating privilege or the disqualification of the commercial operating privilege of any person by the department, the department shall forthwith notify the person in writing at the address of record to surrender his driver's license to the department for the term of suspension, revocation or disqualification. *Licenses that are surrendered to the department may be destroyed. Upon the restoration of the operating privilege, the licensee may apply for a replacement license.*

(2) The department shall include with the written notice of suspension, revocation or disqualification a form for acknowledging the suspension, revocation or disqualification, which form shall be filed with the department if the person has no license to surrender.

(3) The suspension, revocation or disqualification shall be effective upon [the earlier of:

(i) a date determined by the department]; or

(ii) the date of filing or mailing of the license or acknowledgment to the department, if that date is subsequent to the department's notice to surrender the license.

(4) Upon surrender of the license or acknowledgment, the department shall issue a receipt showing the date that it received the license or acknowledgment].

(c) Seizure of revoked, suspended, canceled or disqualified licenses.—

(1) The department may delegate authority to the following persons to seize the driver's license of any person whose driver's license has been ordered to be surrendered by a court or district attorney or by the department:

(i) A designated Commonwealth employee.

(ii) Members of the Pennsylvania State Police.

(iii) Local police officers.

(iv) Sheriffs or deputy sheriffs.

(v) Constables or deputy constables.

(2) The department shall, by regulation, prescribe the manner of selecting those persons who are delegated authority under this subsection to seize the drivers' licenses.]

Any police officer or designated employee of the Commonwealth shall be authorized to confiscate any license that has been revoked, suspended, canceled or disqualified. The confiscated license shall be returned to the department unless it is necessary to keep the license as evidence of an offense.

§ 1541. Period of disqualification, revocation or suspension of operating privilege.

(a) Commencement of period.—The period of disqualification, revocation or suspension of the operating privilege or the disqualification of the commercial operating privilege shall commence as provided for in section 1540 (relating to surrender of license)[. **No credit toward the revocation, suspension or disqualification shall be earned until the driver's license is surrendered to the department, a court or a district attorney, as the case may be. A nonresident licensed driver or an unlicensed individual, including a driver whose license has expired, shall submit an acknowledgment of suspension or revocation to the department in lieu of a driver's license],** except for the suspension of the operating privilege of an unlicensed individual under 16 years of age, in which case the suspension shall commence automatically upon the individual's 16th birthday for the specified period [if an acknowledgment is received any time prior to the individual's 16th birthday. **If a licensed driver is not in possession of his driver's license, no credit toward the disqualification, revocation or suspension shall be earned until a sworn affidavit or a form prescribed by the department is surrendered to the department swearing that the driver is not in possession of his driver's license. Such credit shall be rescinded if it is later determined that the driver was untruthful in the affidavit. Credit shall also be revoked if a**

person surrenders a duplicate license and it is later determined that the person was still in possession of an earlier issued, unexpired license]. The department may, upon request of the person whose license is suspended or disqualified, delay the commencement of the period of suspension or disqualification for a period not exceeding six months whenever the department determines that failure to grant the extension will result in hardship to the person whose license has been suspended or disqualified.

* * *

(e) [Request for hearing.—A person whose operating privilege has been suspended or revoked may request at any time during the suspension or revocation, and the department shall provide, a hearing if the person believes that credit toward the person's suspension or revocation has not been given by the department under section 1540. The department shall issue its final ruling within 60 days following the hearing or the submission of any posthearing filings.] (Reserved).

Section 2. Section 1543(a) and (c) of Title 75 are amended to read:

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

(a) Offense defined.—Except as provided in subsection (b), any person who drives a motor vehicle on any highway or trafficway of this Commonwealth after the commencement of a suspension, revocation or cancellation of the operating privilege and before the operating privilege has been restored is guilty of a summary offense and shall, upon conviction *or adjudication of delinquency*, be sentenced to pay a fine of \$200.

* * *

(c) Suspension or revocation of operating privilege.—Upon receiving a certified record of the conviction *or adjudication of delinquency* of any person under this section, the department shall suspend or revoke that person's operating privilege as follows:

(1) If the department's records show that the person was under suspension, recall or cancellation on the date of violation, and had not been restored, the department shall suspend the person's operating privilege for an additional one-year period.

(2) If the department's records show that the person was under revocation on the date of violation, and had not been restored, the department shall revoke the person's operating privilege for an additional two-year period.

* * *

Section 3. Section 1547(a), (b) and (b.1) of Title 75 are amended and the section is amended by adding subsections to read:

§ 1547. Chemical testing to determine amount of alcohol or controlled substance.

(a) General rule.—Any person who drives, operates or is in actual physical control of the movement of a vehicle in this Commonwealth shall be deemed to have given consent to one or more chemical tests of breath or blood for the purpose of determining the alcoholic content of blood or the presence of a controlled substance if a police officer has reasonable grounds to believe the person to have been driving, operating or in actual physical control of the movement of a vehicle[:

(1) in violation of section 1543(b)(1.1) (relating to driving while operating privilege is suspended or revoked), 3802 (relating to driving under influence of alcohol or controlled substance) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock); or

(2) which was involved in an accident in which the operator or passenger of any vehicle involved or a pedestrian required treatment at a medical facility or was killed}.

(b) [Suspension] *Civil penalties* for refusal.—

(1) If any person placed under arrest for a violation of section 3802 is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted but upon notice by the police officer, the department shall suspend the operating privilege of the person as follows:

(i) Except as set forth in subparagraph (ii), for a period of 12 months.

(ii) For a period of 18 months if any of the following apply:

(A) The person's operating privileges have previously been suspended under this subsection.

(B) The person has, prior to the refusal under this paragraph, been sentenced for:

(I) an offense under section 3802;

(II) an offense under former section 3731;

(III) an offense equivalent to an offense under subclause

(I) or (II); or

(IV) a combination of the offenses set forth in this clause.

(2) It shall be the duty of the police officer to inform the person that:

(i) the person's operating privilege will be suspended upon refusal to submit to chemical testing **and the person will be subject to a restoration fee of up to \$2,000**; and

(ii) if the person refuses to submit to chemical **breath** testing, upon conviction or plea for violating section 3802(a)(1), the person will be subject to the penalties provided in section 3804(c) (relating to penalties).

(3) Any person whose operating privilege is suspended under the provisions of this section shall have the same right of appeal as provided for in cases of suspension for other reasons.

(b.1) Other [suspension] *civil penalties* for refusal.—

(1) If any person placed under arrest for a violation of section 1543(b)(1.1) or 3808(a)(2) is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted; but, upon notice by the police officer and provided no suspension is imposed pursuant to subsection (b), the department shall suspend the operating privilege of the person for a period of six months.

(2) It shall be the duty of the police officer to inform the person that the person's operating privileges will be suspended upon refusal to submit to chemical testing **and the person will be subject to a restoration fee of up to \$2,000**.

(3) Notwithstanding section 3805(c) (relating to ignition interlock), if any person receives a suspension pursuant to this subsection who at the

time of the offense was required to comply with the provisions of section 3805 prior to obtaining a replacement license under section 1951(d) (relating to driver's license and learner's license) that does not contain an ignition interlock restriction, the suspension imposed pursuant to this subsection shall result in the recall of any ignition interlock restricted license previously issued and the driver shall surrender the ignition interlock restricted license to the department **[or its agents designated under the authority of section 1540 (relating to surrender of licenses)]** and, prior to the issuance of a replacement license under section 1951(d) that does not contain an ignition interlock restriction, the department shall require that the person comply with the provisions of section 3805.

(b.2) Restoration fees.—

(1) A person whose operating privilege has been suspended in accordance with subsection (b) or (b.1) shall:

(i) Except as provided in subparagraph (ii) or (iii), pay a restoration fee of \$500.

(ii) If the department has previously suspended the person's operating privilege under this section on one occasion, pay a restoration fee of \$1,000.

(iii) If the department has previously suspended the person's operating privilege under this section on two or more occasions, pay a restoration fee of \$2,000.

(2) All restoration fees imposed under this section must be paid prior to the reinstatement of an individual's unrestricted operating privilege or in accordance with section 1556(b)(3) (relating to ignition interlock limited license).

(b.3) Limitation.—Nothing in this section shall be construed as limiting the ability of law enforcement to obtain chemical testing pursuant to a valid search warrant, court order or any other basis permissible by the Constitution of the United States and the Constitution of Pennsylvania.

* * *

Section 4. Sections 1554(b)(2), 1556(b)(3) and (f), 3804(c), 3805(a.1), (h.2) introductory paragraph and (1) and (i) and 3808(c)(2) of Title 75 are amended to read:

§ 1554. Probationary license.

* * *

(b) Petition.—

* * *

(2) Before being eligible to petition for a probationary license, a person must have served [and earned credit toward serving] the following terms of suspension or revocation for offenses enumerated in sections 1532 (relating to revocation or suspension of operating privilege), 1539 (relating to suspension of operating privilege on accumulation of points) and 1543 (relating to driving while operating privilege is suspended or revoked):

(i) A person with one to seven offenses must have [earned credit for] served at least a three-year term of suspension or revocation.

(ii) A person with 8 to 14 offenses must have [earned credit for] served at least a four-year term of suspension or revocation.

(iii) A person with 15 to 21 offenses must have **[earned credit for] served** at least a five-year term of suspension or revocation.

(iv) A person with 22 or more offenses must have **[earned credit for] served** at least a six-year term of suspension or revocation.

* * *

§ 1556. Ignition interlock limited license.

* * *

(b) Petition.—

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(3) The applicant shall surrender the applicant's driver's license in accordance with section 1540 (relating to surrender of license). If the applicant's driver's license has been lost or stolen, the applicant shall submit an application for a replacement license, along with the proper fee. If the applicant is a nonresident licensed driver, the applicant shall submit an acknowledgment of suspension in lieu of a driver's license. If the applicant's license has expired, the applicant shall submit an application for renewal, along with the appropriate fee. **[All fines, costs and restoration fees must be paid at the time of petition.]** *All fines and costs must be paid at the time of petition unless the applicant is currently on a payment plan.¹ Restoration fees required under section 1960 (relating to reinstatement of operating privilege or vehicle registration) must be paid at the time of petition. Restoration fees required under section 1547(b.2) must be paid as follows:*

(i) *One-half of the amount must be paid at the time of petition.*

(ii) *The remaining amount must be paid at the time of application for an unrestricted driver's license.*

* * *

(f) Suspension eligibility.—The following shall apply:

(1) An individual whose license has been suspended under section 1547(b) shall be eligible to apply for and, if otherwise qualified, be issued an ignition interlock limited license under this section if the individual:

(i) has served six months of the suspension imposed under section 1547(b)(1)(i); or

(ii) has served nine months of the suspension imposed under section 1547(b)(1)(ii).

(2) An individual whose license has been suspended under section 3804(e) (relating to penalties) shall be eligible to apply for and, if otherwise qualified, be issued an ignition interlock limited license under this section if the individual:

(i) has not had a prior offense, as defined under section 3806 (relating to prior offenses). The individual shall be immediately eligible for a suspension imposed under section 3804(e)(2)(i);

(ii) has served six months of the suspension imposed under section 3804(e)(2)(i); or

(iii) has served nine months of the suspension imposed under section 3804(e)(2)(ii).

¹"applicant is current on a payment plan." in enrolled bill.

(3) An individual whose license has been suspended under section 3807(d) (relating to Accelerated Rehabilitative Disposition) shall be eligible, but not required, to apply for and, if otherwise qualified, be issued an ignition interlock limited license under this section for the duration of the suspension.

* * *

§ 3804. Penalties.

* * *

(c) Incapacity; highest blood alcohol; controlled substances.—An individual who violates section 3802(a)(1) and refused testing of **[blood or] breath under section 1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or testing of blood pursuant to a valid search warrant** or an individual who violates section 3802(c) or (d) shall be sentenced as follows:

(1) For a first offense, to:

- (i) undergo imprisonment of not less than 72 consecutive hours;
- (ii) pay a fine of not less than \$1,000 nor more than \$5,000;
- (iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(2) For a second offense, to:

- (i) undergo imprisonment of not less than 90 days;
- (ii) pay a fine of not less than \$1,500;
- (iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(3) For a third or subsequent offense, to:

- (i) undergo imprisonment of not less than one year;
- (ii) pay a fine of not less than \$2,500; and
- (iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

* * *

§ 3805. Ignition interlock.

* * *

(a.1) Exception.—Subsection (a) shall not apply to an individual who meets all of the following:

(1) Is subject to the penalties under section 3804(a)(1) (relating to penalties)[.] ***or subject to mandatory suspension of operating privilege under section 3807(d) (relating to Accelerated Rehabilitative Disposition).***

(2) Has not had a prior offense, as defined under section 3806 (relating to prior offenses).

* * *

(h.2) Declaration of compliance.—Restrictions imposed under section 1556 (relating to ignition interlock limited license) shall remain in effect until the department receives a declaration from the person's ignition

interlock device vendor, in a form provided or approved by the department, certifying that the following incidents have not occurred in the two consecutive months prior to the date entered on the certificate[:], *and for the purposes of a suspension imposed under section 3807(d)(2), the person's ignition interlock device vendor shall certify the following incidents have not occurred in the prior 30 days entered on the certificate:*

(1) An attempt to start the vehicle with a breath alcohol concentration of 0.08% or more, not followed within **[five]** 10 minutes by a subsequent attempt with a breath alcohol concentration lower than 0.08%.

* * *

(i) Offenses committed during a period for which an ignition interlock restricted license has been issued.—Except as provided in sections 1547(b.1) and 3808(c) (relating to illegally operating a motor vehicle not equipped with ignition interlock), any driver who has been issued an ignition interlock restricted license and as to whom the department receives a certified record of a conviction of an offense for which the penalty is a cancellation, disqualification, recall, suspension or revocation of operating privileges shall have the ignition interlock restricted license recalled, and the driver shall surrender the ignition interlock restricted license to the department **[or its agents designated under the authority of section 1540 (relating to surrender of license)]**. Following the completion of the cancellation, disqualification, recall, suspension or revocation which resulted in the recall of the ignition interlock restricted license, the department shall require that the person complete the balance of the ignition interlock restricted license period previously imposed prior to the issuance of a replacement license under section 1951(d) that does not contain an ignition interlock restriction.

§ 3808. Illegally operating a motor vehicle not equipped with ignition interlock.

* * *

(c) Suspension of operating privilege.—Notwithstanding section 3805(c) and (i):

* * *

(2) Upon receipt of a certified record of a second conviction of a violation of this section committed by a person who is required to only drive, operate or be in actual physical control of the movement of a motor vehicle equipped with an ignition interlock system which occurred during the same ignition interlock restricted license period, the department shall suspend the person's operating privileges for a period of one year and recall the ignition interlock restricted license, and the person shall surrender the ignition interlock restricted license to the department **[or its agents designated under the authority of section 1540 (relating to surrender of license)]**. Following completion of the suspension period, the department shall require that the person comply with the requirements of section 3805 prior to being eligible to receive a replacement license under section 1951(d) that does not contain an ignition interlock restriction.

* * *

Section 5. This act shall take effect as follows:

- (1) The following provisions shall take effect immediately:
 - (i) The amendment of 75 Pa.C.S. §§ 1547(b)(2)(ii), 1556(b)(3), 3804(c) and 3805(a.1) and (h.2)(1).
 - (ii) This section.
- (2) The amendment or addition of 75 Pa.C.S. § 1547(a), (b) heading, (1), (2)(i) and (3), (b.1), (b.2) and (b.3) shall take effect in six months.
- (3) The remainder of this act shall take effect in 15 months.

APPROVED—The 20th day of July, A.D. 2017

TOM WOLF