

No. 1994-143

AN ACT

HB 1950

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for revocation or suspension of operating privilege, for revocation of habitual offender's license and for occupational limited license; and providing for probationary license.

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

Section 1. Section 1532(b)(2) and (4) of Title 75 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a subsection to read:

§ 1532. Revocation or suspension of operating privilege.

* * *

(b) Suspension.—

* * *

(2) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of a subsequent offense under **[the following provisions:**

Section] section 1501(a) (relating to drivers required to be licensed) *if the prior offense occurred within five years of the violation date of the subsequent offense.*

[Section 1543 (relating to driving while operating privilege is suspended or revoked).]

* * *

[(4) This subsection does not effect an additional period of revocation of the operating privileges of a driver who receives an additional period of revocation for a second or subsequent violation of section 1543.]

(4) *The department shall suspend the operating privilege of any driver for three months upon receiving a certified record of the driver's conviction of section 1371 (relating to operation following suspension of registration) or an adjudication of delinquency based on section 1371.*

* * *

(d) *Additional suspension.—The department shall suspend the operating privilege of any person upon receiving a certified record of the driver's conviction, adjudication of delinquency or admission into a preadjudication program for a violation under 18 Pa.C.S. § 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages), 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) or 6310.3 (relating to carrying a false identification card). The duration of the suspension shall be as follows:*

(1) For a first offense, the department shall impose a suspension for a period of 90 days.

(2) For a second offense, the department shall impose a suspension for a period of one year.

(3) For a third and subsequent offense, the department shall impose a suspension for a period of two years. Any multiple suspensions imposed shall be served consecutively.

Courts may certify the conviction, adjudication of delinquency or admission into the preadjudication program on the same form used to submit the order of suspension required under the provisions of 18 Pa.C.S. § 6310.4 (relating to restriction of operating privileges). Wherever practicable, the suspension imposed under this section shall be made concurrent with the suspension imposed under the provisions of 18 Pa.C.S. § 6310.4. All offenses committed on or after May 23, 1988, shall be included in considering whether an offense is a first, second, third or subsequent offense.

Section 2. Sections 1541(a), 1542(b) and (e), 1543(b) and (c) and 1553(b), (d), (e) and (h) of Title 75 are amended to read:

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

(a) Commencement of period.—The period of *disqualification*, revocation or suspension of the operating privilege shall commence as provided for in section 1540 (relating to surrender of license). No credit toward the revocation or suspension shall be earned until the driver's license is surrendered to the department, the court or the district attorney, as the case may be. A nonresident licensed driver or an unlicensed driver, *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 driver 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, delay the commencement of the period of suspension 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.

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§ 1542. Revocation of habitual offender's license.

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(b) Offenses enumerated.—Three convictions arising from separate acts of any one or more of the following offenses committed [either singularly or in combination] by any person shall result in such person being designated as a habitual offender:

(1) Any offense set forth in section 1532 (relating to revocation or suspension of operating privilege).

(2) Operation following suspension of registration as defined in section 1371 (relating to operation following suspension of registration).

(3) Making use of or operating any vehicle without the knowledge or consent of the owner or custodian thereof.

(4) Utilizing a vehicle in the unlawful transportation or unlawful sale of alcohol or any controlled substance.

(5) Any felony in the commission of which a court determines that a vehicle was essentially involved.]

(1) Any violation of Subchapter B of Chapter 37 (relating to serious traffic offenses).

(2) Any violation of section 3367 (relating to racing on highways).

(3) Any violation of section 3742 (relating to accidents involving death or personal injury).

(4) Any violation of section 3743 (relating to accidents involving damage to attended vehicle or property).

* * *

(e) Additional offenses.—[Any] Each additional offense committed within a period of five years, as measured from the date of any previous offense, shall result in a revocation for an additional period of two years.

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

* * *

(b) Certain offenses.—

(1) Any person who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when their operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) or because of a violation of section 1547(b)(1) (relating to suspension for refusal) or 3731 shall, upon conviction, be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of not less than 90 days.

(2) This subsection shall apply to any person against whom one of these suspensions has been imposed whether the person is currently serving this suspension or whether the effective date of suspension has been deferred under any of the provisions of section 1544 (relating to additional period of revocation or suspension). This provision shall also

apply until the person has had the operating privilege restored. This subsection shall also apply to any revocation imposed pursuant to section 1542 (relating to revocation of habitual offender's license) if any of the enumerated offenses was for a violation of section 3731.

(c) Suspension or revocation of operating privilege.—Upon receiving a certified record of the conviction 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.

* * *

§ 1553. Occupational limited license.

* * *

(b) Petition.—

(1) The applicant for an occupational limited license must file a petition with the department, by certified mail, setting forth in detail the need for operating a motor vehicle. The petition shall be on a form prescribed by the department and shall identify the specific motor vehicle or vehicles the petitioner seeks permission to operate. The petition shall include an explanation as to why the operation of a motor vehicle is essential to the petitioner's occupation, work, trade or study. The petition shall identify the petitioner's employer and shall include proof of financial responsibility covering all vehicles which the petitioner requests to be allowed to operate. The department may require additional information as well as additional evidence to verify the information contained in the petition.

(2) The petitioner shall surrender his driver's license in accordance with section 1540 (relating to surrender of license). If the petitioner's driver's license has been lost or stolen, the petitioner shall submit an application for a replacement license, along with the proper fee. If the petitioner is a nonresident licensed driver, the petitioner shall submit an acknowledgment of suspension in lieu of a driver's license. If the petitioner's license has expired, the petitioner 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.

(3) Consistent with the provisions of this section, the department shall issue an occupational limited license to the applicant within 20 days of receipt of the petition.

(4) (i) A person whose operating privilege has been suspended for a conviction of section 1543 (relating to driving while operating privilege is suspended or revoked) may not petition for an occupational limited license unless department records show that the suspension for a conviction of section 1543 occurred only as the result of:

(A) a suspension for failure to respond to a citation imposed under the authority of section 1533 (relating to suspension of operating privilege for failure to respond to citation) or 6146 (relating to enforcement agreements);

(B) a suspension for failure to undergo a special examination imposed under the authority of section 1538(a) (relating to school, examination or hearing on accumulation of points or excessive speeding); or

(C) a suspension for failure to attend a departmental hearing imposed under the authority of section 1538(b).

(ii) The petition may not be filed until three months have been served for the suspension under section 1543(a).

* * *

(d) Unauthorized issuance.—The department shall prohibit issuance of an occupational limited license to:

(1) A driver who is not licensed to drive by this or any other state.

(2) Any person who is required by this title to take an examination and who has failed to take and pass such an examination.

(3) Any person who has an unsatisfied judgment against him as the result of a motor vehicle operation, until such judgment has been satisfied [or] under the provisions of section 1774 (relating to payments sufficient to satisfy judgments) or an installment agreement has been entered into to satisfy the judgment as permitted under section 1772(b) (relating to suspension for nonpayment of judgments) or 1775 (relating to installment payment of judgments) and the financial responsibility of such person has been established.

(4) Any person applying for [a] an occupational limited license to operate a commercial motor vehicle [who has had his] whose commercial driver's license privilege is disqualified under the provisions of section 1611 (relating to disqualification).

(5) Any person who, at the time he applies for an occupational limited license, has previously been granted such a privilege within the period of five years next preceding such application.

(6) Any person who has been adjudicated delinquent or convicted of driving under the influence of alcohol or controlled substance unless the suspension or revocation imposed for that conviction has been fully served.

(7) Any person whose [license] operating privilege has been suspended for refusal to submit to chemical testing to determine the amount of

alcohol or controlled substance *unless that suspension has been fully served.*

(8) Any person who has been granted *a consent decree or Accelerated Rehabilitative Disposition* for driving under the influence of alcohol or controlled substance and whose license has been suspended by the department *unless the suspension imposed has been fully served.*

(9) Any person whose [license] *operating privilege* has been suspended for a violation of 18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) *unless the suspension imposed has been fully served.*

(10) Any person whose [license] *operating privilege* has been suspended pursuant to *either* section 13(m) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, *or section 1532(c) (relating to revocation or suspension of operating privilege) unless the suspension imposed has been fully served.*

(11) Any person [who has been convicted of any offense under the following provisions:] *whose operating privilege has been suspended or revoked as the result of a conviction of or as a result of a court order in conjunction with an adjudication of delinquency or the granting of a consent decree for any offense under the following provisions, unless the suspension or revocation has been fully served:*

[Section 1543 (relating to driving while operating privilege is suspended or revoked).]

Section 3345(a) (relating to meeting or overtaking school bus).

Section 3367 (relating to racing on highways).

Section 3733 (relating to fleeing or attempting to elude police officer).

Section 3734 (relating to driving without lights to avoid identification or arrest).

Section 3736 (relating to reckless driving).

Section 3742 (relating to accidents involving death or personal injury).

Section 3743 (relating to accidents involving damage to attended vehicle or property).

(12) Any person whose [license has been] *operating privilege is currently suspended for failure to respond to a citation* pursuant to section 1533 [(relating to suspension of operating privilege for failure to respond to citation)] *or 6146.*

(13) Any person whose [license has been] *operating privilege is currently suspended pursuant to section 1784 (relating to proof of financial responsibility following violation), 1785 (relating to proof of financial responsibility following accident) or 1786 (relating to required financial responsibility).*

(14) Any person whose [license has been] *operating privilege is currently suspended for failure to attend and satisfactorily complete a*

driver improvement course or failure to attend a hearing required under section 1538 [(relating to school, examination or hearing on accumulation of points or excessive speeding)].

(15) Any person whose operating privilege has been suspended for a conviction of section 1543 unless department records show that the suspension for a conviction of section 1543 occurred only as a result of:

(i) a suspension for failure to respond to a citation imposed under the authority of section 1533 or 6146;

(ii) a suspension for failure to undergo a special examination imposed under the authority of section 1538(a); or

(iii) a suspension for failure to attend a departmental hearing imposed under the authority of section 1538(b).

(16) Any person whose operating privilege has been suspended under an interjurisdictional agreement as provided for in section 6146 as the result of a conviction or adjudication if the conviction or adjudication for an equivalent offense in this Commonwealth would have prohibited the issuance of an occupational limited license.

(e) Offenses committed during a period for which an occupational limited license has been issued.—Any driver who [is eligible for] *has been issued* an occupational limited license and [is convicted of any offense listed in section 1535 (relating to schedule of convictions and points) or any] *as to whom the department receives a report of conviction of an* offense for which the penalty is a cancellation, *disqualification*, recall, suspension or revocation of operating privileges shall [not be issued an occupational limited license, or, if such driver has been issued a limited license, the department shall immediately recall and] *have the occupational limited license recalled, and* the driver shall surrender the limited license to the department or its agents [as the department may designate] *designated* under the authority of section 1540.

* * *

(h) Appeal from denial or recall of occupational limited license.—

[(1) Any driver who is eligible under this section for an occupational limited license and who, after petitioning the department,] *Any driver who* is denied an occupational limited license *or whose occupational limited license is recalled* may file with the department a petition for a hearing. [Such] *The* hearing shall be conducted in accordance with Title 2 (relating to administrative law and procedure). The department may charge a reasonable fee based on the cost to the department for conducting such a hearing.

[(2) If a court] *The appeal shall not operate as an automatic supersedeas. If an administrative hearing officer orders a supersedeas* in any appeal, the petitioner shall earn no credit towards serving the suspension for which the petitioner was granted an occupational limited license. *An appeal from a decision of an administrative hearing officer may be taken in the manner provided in 42 Pa.C.S. § 763(a) (relating to*

direct appeals from government agencies). Appeals under this subchapter are exempt from the provisions of section 1550(b) (relating to judicial review) and from the provisions of 42 Pa.C.S. § 933 (relating to appeals from government agencies).

Section 3. Title 75 is amended by adding a section to read:

§ 1554. Probationary license.

(a) Issuance.—Unless otherwise prohibited under any other provision in this section, the department may issue a probationary license under this section to a person who has been designated as a habitual offender under section 1542 (relating to revocation of habitual offender's license) and whose operating privilege has been revoked or to a person with an accumulation of suspensions or revocations wherein the cumulative term of suspension or revocation is five or more years. The department may issue a probationary license for the operation of only a Class C noncommercial motor vehicle.

(b) Petition.—

(1) An applicant for a probationary license must file a petition with the department by certified mail setting forth in detail the need for operating a motor vehicle. The petition shall be on a form prescribed by the department and shall identify the specific motor vehicles the petitioner seeks permission to operate. The petition shall include the operator's name, address and operator number and proof of financial responsibility. The department may require additional information as well as verification of the information contained in the petition. All fines, costs and restoration fees must be paid at the time of the 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 at least a three-year term of suspension or revocation.

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

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

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

(3) The applicant must prove to the satisfaction of the department that the applicant has not driven a motor vehicle during the minimum period of suspension or revocation.

(c) Fee.—The fee for applying for a probationary license shall be \$25. The fee shall be nonrefundable. The annual fee for issuance of a

probationary license shall be \$50, plus the cost of the photograph required in section 1510(a) (relating to issuance and content of driver's license), which shall be in addition to all other licensing fees.

(d) Initial issuance.—

(1) Prior to issuance of a probationary license, the petitioner must be interviewed at a departmental review session.

(2) The department may require the petitioner to satisfactorily complete one or more of the following:

(i) A driver improvement program, the cost of the program to be borne by the petitioner.

(ii) Any examination as provided for in section 1508 (relating to examination of applicant for driver's license).

(iii) A special examination that addresses knowledge of safe driving practices, departmental sanctions and related safety issues.

(3) The probationary license shall be issued only upon recommendation of the department.

(e) Renewal.—The department may require a probationary license holder to attend a departmental review session and to satisfactorily complete a driver improvement program or special examination preceding renewal of the probationary license.

(f) Unauthorized issuance.—The department shall not issue a probationary license to:

(1) A person who has not fully served a minimum term of suspension or revocation under the provisions of subsection (b)(2).

(2) A person who is not licensed to drive by this or any other state.

(3) A person whose operating privilege is currently suspended under section 1533 (relating to suspension of operating privilege for failure to respond to citation) or 6146 (relating to enforcement agreements).

(4) A person whose operating privilege is currently suspended for failure to attend and satisfactorily complete a driver improvement course or special examination or failure to attend a hearing required under section 1538 (relating to school, examination or hearing on accumulation of points or excessive speeding).

(5) A person against whom there is an unsatisfied judgment resulting from the operation of a motor vehicle, until the judgment has been satisfied under the provisions of section 1774 (relating to payments sufficient to satisfy judgments) or an installment agreement has been entered into to satisfy the judgment as permitted under section 1772(b) (relating to suspension for nonpayment of judgments) or 1775 (relating to installment payment of judgments) and the financial responsibility of the person has been established.

(6) A person whose operating privilege is currently suspended under section 1784 (relating to proof of financial responsibility following violation), 1785 (relating to proof of financial responsibility following accident) or 1786 (relating to required financial responsibility).

(7) *A person who has previously been issued a probationary license.*

(8) *A person who has been convicted of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) within the preceding seven years.*

(9) *A person who has been suspended for refusal to submit to chemical testing to determine the amount of alcohol or controlled substance within the preceding seven years.*

(10) *A person who has been granted Accelerated Rehabilitative Disposition for the offense of driving under the influence of alcohol or a controlled substance within the preceding seven years.*

(11) *A person who has ever been convicted of a violation of section 3732 (relating to homicide by vehicle) or 3735 (relating to homicide by vehicle while driving under influence).*

(12) *A person convicted of a violation of section 1543(b) within the preceding seven years.*

(g) Offenses committed during a period for which a probationary license has been issued.—

(1) If a person who has been issued a probationary license is convicted of any of the offenses enumerated in section 1535 (relating to schedule of convictions and points), the probationary license shall be recalled for 30 days for each point accumulated, and the person shall surrender the probationary license to the department or its agents designated under the authority of section 1540 (relating to surrender of license).

(2) If a person who has been issued a probationary license is convicted, adjudicated delinquent or admitted to any preadjudication program for an offense for which the penalty is suspension, cancellation, disqualification or revocation of the operating privilege, the probationary license shall be canceled, and the person shall surrender the probationary license to the department or its agents designated under the authority of section 1540.

(h) Restrictions on use of probationary license.—

(1) For the first three years after initial issuance of a probationary license, the person who has been issued the probationary license shall operate only the specific motor vehicles identified in the petition filed with the department and only between the hours of 6 a.m. and 7 p.m. or such later hour as may be agreed to by the department.

(2) Any person who violates the conditions of issuance or restrictions of a probationary license commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500, and the department shall recall the probationary license for a period of one year.

(i) Term of license.—A probationary license shall be valid for a period of one year from the date of issuance. If the driver has complied with the provisions of this section, the license may be renewed on an annual basis.

(j) Appeal from cancellation, denial or recall of probationary license.—

(1) A person who is denied a probationary license or whose probationary license is canceled or recalled may file with the department a petition for a hearing.

(2) The hearing shall be conducted in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

(3) The department may charge a reasonable fee based on the cost to the department for the hearing.

(4) The appeal shall not operate as an automatic supersedeas. If the administrative hearing officer orders a supersedeas, the petitioner shall earn no credit towards serving the suspension for which the petitioner was granted a probationary license.

(5) An appeal from a decision of an administrative hearing officer may be taken in the manner provided in 42 Pa.C.S. § 763(a) (relating to direct appeals from government agencies). Such appeals are exempt from the provisions of section 1550(b) (relating to judicial review) and from the provisions of 42 Pa.C.S. § 933 (relating to appeals from government agencies).

(k) Limitation.—A person to whom a probationary license is issued for six consecutive years shall be eligible to apply for a regular driver's license at the fee prescribed by section 1951(a) (relating to driver's license and learner's permit) upon satisfactory completion of the sixth year of the probationary license.

Section 4. (a) For drivers who were designated as habitual offenders prior to the effective date of this amendatory act solely as a result of convictions of 75 Pa.C.S. § 1501 or 1543 and for whom departmental records show that the suspensions for convictions of 75 Pa.C.S. § 1543 occurred only as a result of a suspension imposed under the authority of 75 Pa.C.S. § 1533, 1538(a) or (b) or 6146, the Department of Transportation may remove these drivers from habitual offender status and require only that they complete the other sanctions associated with the 75 Pa.C.S. § 1543 convictions. Such persons may petition the department for removal from habitual offender status and, if they are eligible for removal, shall no longer be designated as habitual offenders.

(b) For drivers who were designated as habitual offenders prior to the effective date of this amendatory act and who would no longer be designated as habitual offenders under the provisions of this act, the department may remove these drivers from habitual offender status and require only that they complete the other sanctions associated with those convictions. Such persons may petition the department for removal from habitual offender status and, if they are eligible for removal, shall no longer be designated as habitual offenders.

Section 5. This act shall take effect in nine months.

APPROVED—The 12th day of December, A.D. 1994.

ROBERT P. CASEY