

## No. 1996-8

## AN ACT

HB 2079

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for homicide by vehicle; adding the offense of aggravated assault by vehicle; further providing for accidents involving death or personal injury, for certain authorized travel periods, for permit for movement during course of manufacture and for movement of certain oxygen furnace parts; and providing for movement of domestic animal feed.

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

Section 1. Section 3735 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 3735. Homicide by vehicle while driving under influence.

(a) *Offense defined.*—Any person who unintentionally causes the death of another person as the [direct] result of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section 3731 is guilty of a felony of the [third] *second* degree when the violation is the cause of death and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than three years.

(b) *Applicability of sentencing guidelines.*—The sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory penalty of this section.

Section 2. Title 75 is amended by adding a section to read:

§ 3735.1. *Aggravated assault by vehicle while driving under the influence.*

(a) *Offense defined.*—Any person who negligently causes serious bodily injury to another person as the result of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section 3731 commits a felony of the second degree when the violation is the cause of the injury.

(b) *Definition.*—As used in this section, the term “serious bodily injury” means any bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

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

§ 3742.1. *Accidents involving death or personal injury while not properly licensed.*

(a) *Offense defined.*—A person commits an offense under this section if the person was the driver of any vehicle and caused an accident resulting in injury or death of any person and whose operating privilege at the time of the accident is canceled, recalled, revoked or suspended pursuant to

*section 1532 (relating to revocation or suspension of operating privilege) and not restored or who at the time of the accident had not been issued a valid driver's license.*

**(b) Penalties.—**

*(1) Except as otherwise provided in this section, any person violating subsection (a) commits a misdemeanor of the second degree if at the time of the accident the person's operating privilege is canceled, recalled, revoked or suspended pursuant to section 1532 and not restored. If the person had not been issued a valid driver's license, the offense is a misdemeanor of the third degree.*

*(2) If the victim suffers serious bodily injury or death, any person violating subsection (a) commits a felony of the third degree if at the time of the accident the person's operating privilege is canceled, recalled, revoked or suspended pursuant to section 1532 and not restored. If the person had not been issued a valid driver's license, the offense is a misdemeanor of the first degree.*

*(3) Any motor vehicle, as defined in section 102 (relating to definitions), used in the commission of an offense under this section may be deemed contraband and forfeited in accordance with the provisions set forth in 18 Pa.C.S. § 6501(d) (relating to scattering rubbish) if the driver's operating privilege is canceled, recalled, revoked or suspended pursuant to section 1532 and not restored at the time of the accident.*

**(c) Definitions.—***As used in this section, the term "serious bodily injury" means any bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.*

Section 4. Section 4962 of Title 75 is amended by adding a subsection to read:

§ 4962. Conditions of permits and security for damages.

\* \* \*

*(f.1) Authorized travel periods.—A permitted vehicle, combination or load which does not exceed 100,000 pounds gross weight and which does not exceed a size limitation under Subchapter B (relating to width, height and length) may be driven, hauled or towed 24 hours a day, seven days a week, if the vehicle or combination is operated at prevailing speeds. Movement under this subsection is not authorized during any of the following:*

*(1) A holiday period specified in department regulations or in the permit.*

*(2) Inclement weather, as defined in department regulations.*

\* \* \*

Section 5. Section 4968(a) introductory paragraph and (3.1) of Title 75 are amended and the subsection is amended by adding a paragraph to read:

§ 4968. Permit for movement during course of manufacture.

(a) Annual permit.—An annual permit may be issued authorizing movement on highways of boats, trailers, mobile homes, modular housing units and undercarriages, helicopters, hot ingots, *basic oxygen furnace lances*, railway equipment and rails or other articles, vehicles or combinations which exceed the maximum height, width or length specified in Subchapter B (relating to width, height and length) or combinations carrying raw milk or flat-rolled steel coils or hot ingots which exceed the maximum weight specified in Subchapter C (relating to maximum weights of vehicles) while they are in the course of manufacture and entirely within the control of the manufacturer, subject to the following provisions:

\* \* \*

(3.1) A combination of vehicles which is hauling raw milk to a manufacturer [in this Commonwealth] may be permitted by the department and local authorities to move upon specified highways within their respective jurisdiction *24 hours a day, seven days a week, except during inclement weather as defined in department regulations*, if the gross weight does not exceed 95,000 pounds and if the weight of any nonsteering axle does not exceed 21,000 pounds. No permit may be issued for this type of movement upon an interstate highway.

\* \* \*

(3.3) *A combination of vehicles which is hauling basic oxygen furnace lances may be permitted by the department and local authorities to move upon specified highways within their respective jurisdictions if the overall length does not exceed 90 feet. A vehicle operating under a permit authorized under this section may be driven 24 hours a day, seven days a week, if the vehicle or combination is operated at prevailing speeds. Movement under this paragraph is not authorized during any of the following:*

(i) *A holiday period specified in department regulations or in the permit.*

(ii) *Inclement weather, as defined in department regulations.*

\* \* \*

Section 6. Section 4974 of Title 75 is amended to read:

§ 4974. Permit for movement of containerized cargo.

An annual permit may be issued authorizing the movement on highways of containerized cargo which exceeds the maximum vehicle gross or maximum axle weights specified in Subchapter C (relating to maximum weights of vehicles). The weight of any [vehicle] *combination* permitted under this section shall not exceed 90,000 pounds overall gross weight and 21,000 pounds on any axle. *A brake retarder is not required on a combination permitted under this section while the combination is operated within the counties which comprise the district of a port of a city of the first class.*

Section 7. Section 4975 of Title 75, added December 20, 1995 (P.L.669, No.75), is amended to read:

§ 4975. Permit for movement of special mobile equipment.

An annual permit may be issued authorizing the hauling or towing of a piece of special mobile equipment which does not exceed nine feet two inches in width on freeways, provided the permitted vehicle or combination maintains a *minimum* speed of 40 miles per hour.

Section 8. Title 75 is amended by adding a section to read:

§ 4976. *Permit for movement of domestic animal feed.*

*An annual permit may be issued authorizing the movement on highways of domestic animal feed, in bulk, which exceeds the maximum vehicle gross weight specified in Subchapter C (relating to maximum weights of vehicles). The weight of any vehicle permitted under this section may not exceed 95,000 pounds overall gross weight and the weight on any nonsteering axle does not exceed 21,000 pounds. No permit may be issued for this type of movement upon an interstate highway.*

Section 9. This act shall take effect in 60 days.

APPROVED—The 23rd day of February, A.D. 1996.

THOMAS J. RIDGE