

No. 2003-24

AN ACT

SB 8

Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for impairment due to alcohol or controlled substances, for Department of Transportation records and for investigation by police officers; further providing for procurement; and making editorial changes.

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

Section 1. Sections 6105(c)(3) and 7508.1(b) and (c) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

* * *

(c) Other persons.—In addition to any person who has been convicted of any offense listed under subsection (b), the following persons shall be subject to the prohibition of subsection (a):

* * *

(3) A person who has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) *or the former 75 Pa.C.S. § 3731*, on three or more separate occasions within a five-year period. For the purposes of this paragraph only, the prohibition of subsection (a) shall only apply to transfers or purchases of firearms after the third conviction.

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§ 7508.1. Substance Abuse Education and Demand Reduction Fund.

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(b) Imposition.—Unless the court finds that undue hardship would result, a mandatory cost of \$100, which shall be in addition to any other costs imposed pursuant to statutory authority, shall automatically be assessed on any individual convicted, adjudicated delinquent or granted Accelerated Rehabilitative Disposition or any individual who pleads guilty or nolo contendere for a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or a violation of 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance).

(c) Additional assessment.—In addition to the assessment required by subsection (b), a person convicted of or adjudicated delinquent for a violation of 75 Pa.C.S. § [3731] 3802 shall be assessed \$200 where the amount of alcohol by weight in the blood of the person is equal to or greater than [.15%] 0.16% at the time a chemical test is performed on a sample of

the person's breath, blood or urine. For the purposes of this subsection, the sample of the person's blood, breath or urine shall be taken within two hours after the person is placed under arrest.

* * *

Section 2. Sections 7513 and 7514 of Title 18 are repealed.

Section 3. Sections 933(a)(1)(ii), 1515(a)(5), 1725.3(a), 3571(b)(4), 3573(b)(3), 7002(b) and 7003(5) of Title 42 are amended to read:

§ 933. Appeals from government agencies.

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

* * *

(ii) Determinations of the Department of Transportation appealable under the following provisions of Title 75 (relating to vehicles):

Section 1377 (relating to judicial review).

Section 1550 (relating to judicial review).

Section 4724(b) (relating to judicial review).

Section 7303(b) (relating to judicial review).

Section 7503(b) (relating to judicial review).

Except as otherwise prescribed by general rules, the venue shall be in the county of the principal place of business of any salvor or messenger service, the location of any inspection station involved, the county where the arrest for a violation of 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) was made in appeals involving the suspension of operating privileges under 75 Pa.C.S. § 1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or the residence of any individual appellant where the venue is not otherwise fixed by this sentence. In the case of a nonresident individual venue, except as otherwise prescribed by general rules, shall be in the county in which the offense giving rise to the recall, cancellation, suspension or revocation of operating privileges occurred.

* * *

§ 1515. Jurisdiction and venue.

(a) Jurisdiction.—Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

* * *

(5) Offenses under 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant under such provision in this Commonwealth.

(ii) No personal injury (other than to the defendant **[or the immediate family of the defendant]**) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) No property damage in excess of \$500 other than to the defendant's property resulted from the violation.

(v) The defendant is not subject to the provisions of Chapter 63 (relating to juvenile matters).

(vi) The arresting authority shall cause to be transmitted a copy of the charge of any violation of 75 Pa.C.S. § [3731] 3802 to the office of the clerk of the court of common pleas within five days after the preliminary arraignment.

In determining that the above criteria are met the district justice shall rely on the certification of the arresting authority. Certification that the criteria are met need not be in writing. Within ten days after the disposition, the district justice shall certify the disposition to the office of the clerk of the court of common pleas in writing.

* * *

§ 1725.3. Criminal laboratory user fee.

(a) Imposition.—A person who is placed on probation without verdict pursuant to section 17 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or who receives Accelerated Rehabilitative Disposition or who pleads guilty to or nolo contendere to or who is convicted of a crime as defined in 18 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. § [3731] 1543(b)(1.1) *(relating to driving while operating privilege is suspended or revoked)* or 3802 (relating to driving under influence of alcohol or controlled substance) or 3735 (relating to homicide by vehicle while driving under influence) or 3735.1 *(relating to aggravated assault while driving under the influence)* or 3808(a)(2) *(relating to illegally operating a motor vehicle not equipped with ignition interlock)* or a violation of The Controlled Substance, Drug, Device and Cosmetic Act shall, in addition to any fines, penalties or costs, in every case where laboratory services were required to prosecute the crime or violation, be sentenced to pay a criminal laboratory user fee which shall include, but not be limited to, the cost of sending a laboratory technician to court proceedings.

* * *

§ 3571. Commonwealth portion of fines, etc.

* * *

(b) Vehicle offenses.—

* * *

(4) When prosecution under 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is the result of State Police action, 50% of all fines, forfeited recognizances and other

forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research. **[Programs under this subparagraph include Project DARE (Drug and Alcohol Resistance Education).]**

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

* * *

§ 3573. Municipal corporation portion of fines, etc.

* * *

(b) Vehicle offenses.—

* * *

(3) When prosecution under 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is the result of local police action, 50% of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research. **[Programs under this subparagraph include Project DARE (Drug and Alcohol Resistance Education).]**

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

* * *

§ 7002. Ignition interlock systems for driving under the influence.

* * *

(b) Second or subsequent offense.—In addition to any other requirements imposed by the court, where a person has been convicted of a second or subsequent violation of 75 Pa.C.S. § 3731, the court shall order the installation of an approved ignition interlock device on each motor vehicle owned by the person to be effective upon the restoration of operating privileges by the department. A record shall be submitted to the department when the court has ordered the installation of an approved interlock ignition device. Before the department may restore such person's operating privilege, the department must receive a certification from the court that the ignition interlock system has been installed. *If a second or subsequent*

violation of 75 Pa.C.S. § 3731 occurs after September 30, 2003, a court's failure to enter an order in compliance with this subsection shall not prevent the department from requiring, and the department shall require, the person to install an approved ignition interlock device in accordance with this chapter.

* * *

§ 7003. Additional driver's license restoration requirements.

In addition to any other requirements established for the restoration of a person's operating privileges under 75 Pa.C.S. § 1548 (relating to requirements for driving under influence offenders):

* * *

[(5) A person whose operating privilege is suspended for a second or subsequent violation of 75 Pa.C.S. § 3731 or a similar out-of-State offense who does not apply for an ignition interlock restricted license shall not be eligible to apply for the restoration of operating privileges for an additional year after otherwise being eligible for restoration under paragraph (1).]

Section 4. Chapter 70 of Title 42 is repealed.

Section 5. Section 9763(c) of Title 42 is amended to read:

§ 9763. Sentence of intermediate punishment.

* * *

(c) Restriction.—

(1) A defendant [convicted under] *subject to 75 Pa.C.S. § [3731(e) (relating to driving under influence of alcohol or controlled substance)] 3804 (relating to penalties)* may only be sentenced to intermediate punishment:

[(1) in a residential inpatient program or in a residential rehabilitative center; or

(2) by house arrest or electronic surveillance combined with drug and alcohol treatment.]

(i) for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs); and

(ii) after undergoing an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).

(2) If the defendant is determined to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment which includes participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). Such treatment may be combined with house arrest with electronic surveillance or a partial confinement program such as work release, a work camp or a halfway facility.

(3) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment by:¹

- (i) house² arrest or electronic surveillance;**
- (ii) partial confinement programs such as work release, work camps and halfway facilities; or**
- (iii) any combination of the programs set forth in this subsection.**

*** * ***

Section 6. Section 9804(b)(3) of Title 42 is amended and the subsection is amended by adding paragraphs to read:

§ 9804. County intermediate punishment programs.

*** * ***

(b) Eligibility.—

*** * ***

[(3) Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked) or 3731(e) (relating to driving under influence of alcohol or controlled substance) may only be sentenced to intermediate punishment program in:

- (i) a residential inpatient program or a residential rehabilitative center;**
- (ii) house arrest and electronic surveillance combined with drug and alcohol treatment; or**
- (iii) partial confinement programs, such as work release, work camps and halfway facilities, combined with drug and alcohol treatment.]**

(4) (i) Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked), 3804 (relating to penalties) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock) shall undergo an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).

(ii) If the defendant is determined to be in need of drug and alcohol treatment, a sentence to intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). Such treatment may be combined with house arrest with electronic surveillance or a partial confinement program such as work release, a work camp or a halfway facility.

¹“punishment:” in enrolled bill.

²(i) by house” in enrolled bill.

(iii) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment program in:

(A) house arrest and electronic surveillance;

(B) partial confinement programs such as work release, work camps and halfway facilities; or

(C) any combination of the programs set forth in this paragraph.

(5) A defendant subject to 75 Pa.C.S. § 3804 (relating to penalties) may only be sentenced to intermediate punishment for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

Section 7. Sections 1516(c) and (d) and 1532(b)(3) of Title 75 are amended to read:

§ 1516. Department records.

* * *

(c) Dismissal of charges for violations.—If a charge for violation of any of the provisions of this title against any person is dismissed where there have been no prior convictions by any court of competent jurisdiction, no record of the charge and dismissal shall be included in the driving record of the person. If the person has been previously convicted of the charge and suspension was imposed by the department, which suspension was either partially or fully served, the department may keep a record of the offense for the purpose of showing the suspension was imposed against the person[.], *but the offense shall not be used for the purpose of calculating the requisite number of offenses under section 1542 (relating to revocation of habitual offender's license).* In addition, the department may keep records of charges that have been filed with the courts in order to determine a person's eligibility for a probationary license under the provisions of section 1554(b)(3) (relating to probationary license). *All records maintained pursuant to this subsection shall be maintained for administrative and law enforcement use only and shall not be released for any other purpose.*

(d) Updating driving record.—Drivers wishing to have their record reviewed by the department may make such a request in order that the record be brought up to date. *In updating records, the department shall include recalculation of suspension or revocation segments and the assignment and crediting of any suspension or revocation time previously assigned or credited toward a suspension or revocation which resulted from a conviction which has been vacated, overturned, dismissed or withdrawn. Any fully or partially served suspension or revocation time may only be reassigned or credited toward a suspension or revocation segment processed on the driver's record as of the actual commencement date of the fully or partially served suspension or revocation time.*

§ 1532. Suspension of operating privilege.

* * *

(b) Suspension.—

* * *

(3) The department shall suspend the operating privilege of any driver for 12 months upon receiving a certified record of the driver's conviction of section [3731 (relating to driving under influence of alcohol or controlled substance) or] 3733 (relating to fleeing or attempting to elude police officer)[,] or a substantially similar [offenses] *offense* reported to the department under Article III of section 1581 (relating to Driver's License Compact), or an adjudication of delinquency based on section [3731 or] 3733. The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section [3731 or] 3733.

* * *

Section 8. Section 1534(b) of Title 75 is amended and the section is amended by adding subsections to read:

§ 1534. Notice of acceptance of Accelerated Rehabilitative Disposition.

* * *

(b) Exception.—If a person is arrested for any offense enumerated in section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) and is offered and accepts Accelerated Rehabilitative Disposition under general rules, the court shall promptly notify the department. The department shall maintain a record of the acceptance of Accelerated Rehabilitative Disposition for a period of [seven] *ten* years from the date of notification. This record shall not be expunged by order of court[.] *or prior to the expiration of the ten-year period.*

(c) *Expungement.—Immediately following the expiration of the ten-year period, the department shall expunge the record of the acceptance of Accelerated Rehabilitative Disposition. The department shall not require an order of court to expunge the record.*

(d) *Exceptions to expungement.—The department shall not be required to expunge the record of acceptance of Accelerated Rehabilitative Disposition if:*

(1) *during the ten-year period, the department revokes the operating privileges of a person pursuant to section 1542 (relating to revocation of habitual offender's license); or*

(2) *the person was a commercial driver at the time of the violation causing the disposition.*

Section 9. Sections 1539(c), 1541(a.1), (c) and (d), 1542(b), 1543(b) and 1545 of Title 75 are amended to read:

§ 1539. Suspension of operating privilege on accumulation of points.

* * *

(c) Determination of subsequent suspensions.—Every suspension and revocation under any provision of this subchapter shall be counted in determining whether a suspension is a second, third or subsequent

suspension. Acceptance of Accelerative Rehabilitative Disposition for an offense enumerated in section 1532 (relating to revocation or suspension of operating privilege) or 3802 (*relating to driving under influence of alcohol or controlled substance*) shall be considered a suspension in making such determination.

* * *

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

* * *

(a.1) Credit toward serving period of suspension for certain violations.—Credit toward serving the period of suspension or revocation imposed for sections [3731 (*relating to driving under influence of alcohol or controlled substance*),] 1543(b)(1.1) (*relating to driving while operating privilege is suspended or revoked*), 3732 (relating to homicide by vehicle), 3735 (relating to homicide by vehicle while driving under the influence) [and], 3735.1 (relating to aggravated assault by vehicle while driving under the influence), 3802 (*relating to driving under influence of alcohol or controlled substance*) and 3808(a)(2) (*relating to illegally operating a motor vehicle not equipped with ignition interlock*) shall not commence until the date of the person's release from prison.

* * *

(c) Restoration of revoked operating privilege.—Any person whose operating privilege has been revoked pursuant to section 1542 (relating to revocation of habitual offender's license) or 1543 [(*relating to driving while operating privilege is suspended or revoked*)] is not entitled to automatic restoration of the operating privilege. Such person may apply for a learner's permit, if permitted under the provisions of this chapter, upon expiration of the revocation.

(d) Continued suspension of operating privilege.—A defendant ordered by the court under section [1548] 3816 (relating to requirements for driving under influence offenders), as the result of a conviction or Accelerated Rehabilitative Disposition of a violation of section [3731 (*relating to driving under influence of alcohol or controlled substance*)] 3802, to attend a treatment program for alcohol or drug addiction must successfully complete all requirements of the treatment program ordered by the court before the defendant's operating privilege may be restored. Successful completion of a treatment program includes the payment of all court-imposed fines and costs, as well as fees to be paid to the treatment program by the defendant. If a defendant fails to successfully complete the requirements of a treatment program, the suspension shall remain in effect until the defendant completes the program and is otherwise eligible for restoration of his operating privilege. The treatment agency shall immediately notify the court of successful completion of the treatment program. The final decision as to whether a defendant has successfully completed the treatment program rests with the court.

§ 1542. Revocation of habitual offender's license.

* * *

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

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

(1.1) Any violation of Chapter 38 (relating to driving after imbibing alcohol or utilizing drugs) except for sections 3808(a)(1) and (b) (relating to illegally operating a motor vehicle not equipped with ignition interlock) and 3809 (relating to restriction on alcoholic beverages).

(1.2) Any violation of section 1543(b)(1.1) (relating to driving while operating privilege is suspended or revoked).

(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).

(3.1) Any violation of section 3742.1 (relating to accidents involving death or personal injury while not properly licensed).

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

* * *

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

* * *

(b) Certain offenses.—

(1) A person who drives a motor vehicle on a highway or trafficway of this Commonwealth at a time when the person's operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) or *the former section 3731*, because of a violation of section 1547(b)(1) (relating to suspension for refusal) or [3731] 3802 or *former section 3731* or is suspended under section 1581 (relating to Driver's License Compact) for an offense substantially similar to a violation of section [3731] 3802 or *former section 3731* shall, upon conviction, be guilty of a summary offense and shall be sentenced to pay a fine of ~~[\$1,000]~~ \$500 and to undergo imprisonment for a period of not less than [90] 60 days *nor more than 90 days*.

(1.1) (i) A person who has an amount of alcohol by weight in his blood that is equal to or greater than .02% at the time of testing or [is under the influence of a controlled substance as defined in section 1603 (relating to definitions)] who at the time of testing has in his blood any amount of a Schedule I or nonprescribed Schedule II or III controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,

Device and Cosmetic Act, or its metabolite and who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when the person's operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section [3731] 3802 or former section 3731 or because of a violation of section 1547(b)(1) or [3731] 3802 or former section 3731 or is suspended under section 1581 for an offense substantially similar to a violation of section [3731] 3802 or former section 3731 shall, upon a first 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.

(ii) A second violation of this paragraph shall constitute a misdemeanor of the third degree, and upon conviction thereof the person shall be sentenced to pay a fine of \$2,500 and to undergo imprisonment for not less than six months.

(iii) A third or subsequent violation of this paragraph shall constitute a misdemeanor of the first degree, and upon conviction thereof the person shall be sentenced to pay a fine of \$5,000 and to undergo imprisonment for not less than two years.

(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] 3802 or former section 3731 or for an out-of-State offense that is substantially similar to a violation of section [3731] 3802 or former section 3731, for which a revocation is imposed under section 1581.

* * *

§ 1545. Restoration of operating privilege.

Upon the restoration of any person's operating privilege which has been suspended or revoked pursuant to this subchapter or pursuant to Chapter 38 (relating to driving after imbibing alcohol or utilizing drugs), such person's record shall show five points, except that any additional points assessed against the person since the date of the last violation resulting in the suspension or revocation shall be added to such five points unless the person has served an additional period of suspension or revocation pursuant to section 1544(a) (relating to additional period of revocation or suspension). This section shall not apply to section 1533 (relating to suspension of operating privilege for failure to respond to citation) or to 18 Pa.C.S. § 6310.4 (relating to restriction of operating privileges).

Section 9.1. Section 1547(a), (b)(1) and (2), (c), (d), (e) and (i) of Title 75 are amended and the section is amended by adding a subsection 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 [motor] vehicle in this Commonwealth shall be deemed to have given consent to one or more chemical tests of breath, blood or urine 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 [motor] vehicle:

(1) [while under the influence of alcohol or a controlled substance or both] 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 for refusal.—

(1) If any person placed under arrest for a violation of section [3731 (relating to driving under influence of alcohol or controlled substance)] 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 [for a period of 12 months.] 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

(ii) upon conviction, plea or adjudication of delinquency for violating section 3802(a), the person will be subject to the penalties provided in section 3804(c) (relating to penalties).

** * **

(b.1) Other suspension 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.

(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.

(c) Test results admissible in evidence.—In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section [3731] 3802 or any other violation of this title arising out of the same action, the amount of alcohol or controlled substance in the defendant's blood, as shown by chemical testing of the person's breath, blood or urine, which tests were conducted by qualified persons using approved equipment, shall be admissible in evidence.

(1) Chemical tests of breath shall be performed on devices approved by the Department of Health using procedures prescribed jointly by regulations of the Departments of Health and Transportation. Devices shall have been calibrated and tested for accuracy within a period of time and in a manner specified by regulations of the Departments of Health and Transportation. For purposes of breath testing, a qualified person means a person who has fulfilled the training requirement in the use of the equipment in a training program approved by the Departments of Health and Transportation. A certificate or log showing that a device was calibrated and tested for accuracy and that the device was accurate

shall be presumptive evidence of those facts in every proceeding in which a violation of this title is charged.

(2) (i) Chemical tests of blood or urine, if conducted by a facility located in this Commonwealth, shall be performed by a clinical laboratory licensed and approved by the Department of Health for this purpose using procedures and equipment prescribed by the Department of Health or by a Pennsylvania State Police criminal laboratory. For purposes of blood and urine testing, qualified person means an individual who is authorized to perform those chemical tests under the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act.

(ii) *For purposes of blood and urine testing to determine blood alcohol or controlled substance content levels, the procedures and equipment prescribed by the Department of Health shall be reviewed within 120 days of the effective date of this subparagraph and at least every two years thereafter to ensure that consideration is given to scientific and technological advances so that testing conducted in accordance with the prescribed procedures utilizing the prescribed equipment will be as accurate and reliable as science and technology permit.*

(3) Chemical tests of blood or urine, if conducted by a facility located outside this Commonwealth, shall be performed:

(i) by a facility licensed *and approved* by the Department of Health *for this purpose*; or

(ii) by a facility licensed to conduct the tests by the state in which the facility is located and licensed pursuant to the Clinical Laboratory Improvement Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).

(4) *For purposes of blood testing to determine the amount of a Schedule I or nonprescribed Schedule II or III controlled substance or a metabolite of such a substance, the Department of Health shall prescribe minimum levels of these substances which must be present in a person's blood in order for the test results to be admissible in a prosecution for a violation of section 1543(b)(1.1), 3802(d)(1), (2) or (3) or 3808(a)(2).*

(d) Presumptions from amount of alcohol.—If chemical testing of a person's breath, blood or urine shows:

(1) That the amount of alcohol by weight in the blood of an adult is 0.05% or less, it shall be presumed that the adult was not under the influence of alcohol and the adult shall not be charged with any violation under section 3731(a)(1), (4) or (5) (relating to driving under influence of alcohol or controlled substance), or, if the adult was so charged prior to the test, the charge shall be void ab initio. This fact shall not give rise to any presumption concerning a violation of section 3731(a)(2) or (3) or (i).

(2) That the amount of alcohol by weight in the blood of an adult is in excess of 0.05% but less than [0.10%] 0.08%, this fact shall not give rise to any presumption that the adult was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining whether the adult was or was not under the influence of alcohol. This provision shall not negate the provisions of section 3731(i).

(3) That the amount of alcohol by weight in the blood of:

(i) an adult is [0.10%] 0.08% or more; or

(ii) a minor is 0.02% or more,

this fact may be introduced into evidence if the person is charged with violating section 3731.

(e) Refusal admissible in evidence.—In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section [3731] 3802 or any other violation of this title arising out of the same action, the fact that the defendant refused to submit to chemical testing as required by subsection (a) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence but it may be considered along with other factors concerning the charge.

* * *

(i) Request by driver for test.—Any person involved in an accident or placed under arrest for a violation of section [3731] 1543(b)(1.1), 3802 or 3808(a)(2) may request a chemical test of his breath, blood or urine. Such requests shall be honored when it is reasonably practicable to do so.

* * *

Section 10. Section 1547(d) of Title 75 is repealed.

Section 11. Sections 1548, 1549(b) and 1552 of Title 75 are amended to read:

§ 1548. Requirements for driving under influence offenders.

[(a) Evaluation using Court Reporting Network.—In addition to any other requirements of the court, every person convicted of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and every person offered Accelerated Rehabilitative Disposition as a result of a charge of a violation of section 3731 shall, prior to sentencing or receiving Accelerated Rehabilitative Disposition or other preliminary disposition, be evaluated using Court Reporting Network instruments issued by the department and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the person's involvement with alcohol or controlled substances and to assist the court in determining what sentencing, probation or conditions of Accelerated Rehabilitative Disposition would benefit the person or the public.

(b) Attendance at alcohol highway safety school.—In addition to any other requirements of the court, every person convicted of a first offense under section 3731 and every person placed on Accelerated

Rehabilitative Disposition or other preliminary disposition as a result of a charge of a violation of section 3731 shall, as a part of sentencing or as a condition of parole, probation or Accelerated Rehabilitative Disposition, be required to attend and successfully complete an approved alcohol highway safety school established pursuant to section 1549 (relating to establishment of schools). All persons required to participate in this program shall be given both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked). Persons convicted of a second or subsequent offense under section 3731 shall be required by the court to be treated for alcohol or drug addiction pursuant to subsection (d).]

(c) Results of evaluation.—

(1) *This subsection shall apply as follows:*

(i) *To offenders sentenced under section 3804(a)(3), (b)(2) and (c)(1) (relating to penalties) after January 31, 2004, and before July 1, 2006.*

(ii) *To offenders sentenced under section 3804(a)(1) and (2) and (b)(1) after January 31, 2004, and before July 1, 2009.*

(2) Based on the results of evaluation and any additional information and evidence, the court may in addition to any other requirements of the court or this title determine and require, as part of sentencing or condition of parole, probation or Accelerated Rehabilitative Disposition or other preliminary disposition, that the person successfully complete a prescribed program of individual or group intervention or supervised inpatient or outpatient treatment or any combination of these programs or treatments for a period of up to [two years in duration] *the statutorily available maximum*. Any program of individual or group intervention or supervised inpatient or outpatient treatment shall be of a type approved by the Department of Health or operated by a facility or hospital that is under the authority of the United States Armed Forces or the Department of Veterans Affairs. Based on periodic reviews of the person's progress, the court may alter, modify or shorten or extend the duration of the requirements.

(3) *This subsection shall expire July 1, 2009.*

(d) Order for alcohol or drug commitment.—

(1) *This subsection shall apply as follows:*

(i) *To offenders sentenced under section 3804(a)(3), (b)(2) and (c)(1) after January 31, 2004, and before July 1, 2006.*

(ii) *To offenders sentenced under section 3804(a)(1) and (2) and (b)(1) after January 31, 2004, and before July 1, 2009.*

(2) If after evaluation and further examination and hearing it is determined that a defendant is an alleged chronic abuser of alcohol or controlled substances or that the person is a severely debilitated controlled substance or alcohol abuser who represents a demonstrated and serious threat, the court may order the person committed for

treatment at a facility or institution approved by the Department of Health or operated by a facility or hospital that is under the authority of the United States Armed Forces or the Department of Veterans Affairs. If the defendant has been convicted of a previous violation of section 3731, the court shall order the person committed to a drug and alcohol treatment program licensed by the Office of Drug and Alcohol Programs of the Department of Health or operated by a facility or hospital that is under the authority of the United States Armed Forces or the Department of Veterans Affairs:

[(1)] (i) Any person subject to this subsection may be examined by an appropriate physician of the person's choosing and the result of the examination shall be considered by the court.

[(2)] (ii) Upon motion duly made by the committed person, an attorney or an attending physician, the court at any time after an order of commitment may review the order. After determining the progress of treatment, the court may order its continuation, the person's release or supervised treatment on an outpatient basis.

[(3)] (iii) Any person ordered by the court to receive treatment after a first offense, and any person required to receive treatment after a second offense under section 3731 must demonstrate to the court that the defendant has successfully completed treatment according to all guidelines required by the program before the person's operating privilege may be restored.

(3) This subsection shall expire July 1, 2009.

(e) Costs.—Costs of any and all requirements applied under this section shall be in addition to any other penalty required or allowed by law and shall be the responsibility of the person upon whom the requirements are placed. ***This subsection shall expire July 1, 2009.***

(f) Court-ordered intervention or treatment.—

(1) This subsection shall apply as follows:

(i) To offenders sentenced under section 3804(a)(3), (b)(2) and (c)(1) after January 31, 2004, and before July 1, 2006.

(ii) To offenders sentenced under section 3804(a)(1) and (2) and (b)(1) after January 31, 2004, and before July 1, 2009.

(2) A record shall be submitted to the department as to whether the court did or did not order a defendant to attend a program of supervised individual or group counseling treatment or supervised inpatient or outpatient treatment. If the court orders treatment, a report shall be forwarded to the department as to whether the defendant successfully completed the program. If a defendant fails to successfully complete a program of treatment as ordered by the court, the suspension shall remain in effect until the department is notified by the court that the defendant has successfully completed treatment and the defendant is otherwise eligible for restoration of his operating privilege. In order to implement the recordkeeping requirements of this section, the

department and the court shall work together to exchange pertinent information about a defendant's case, including attendance and completion of treatment or failure to complete treatment.

(3) This subsection shall expire July 1, 2009.

§ 1549. Establishment of schools.

* * *

(b) Alcohol highway safety schools.—

(1) Each county, multicounty judicial district or group of counties combined under one program shall, in compliance with regulations of the department and the Department of Health, establish and maintain a course of instruction on the problems of alcohol and driving. *The time during which the course is offered shall accommodate persons' work schedules, including weekend and evening times.*

(2) These regulations shall include, but not be limited to, a uniform curriculum for the course of instruction, training and certification requirements for instructors and provision for the giving of both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked) to all program participants.

§ 1552. Accelerated Rehabilitative Disposition.

The court of common pleas in each judicial district and the Municipal Court of Philadelphia shall establish and implement a program for Accelerated Rehabilitative Disposition for persons charged with a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) in accordance with the provisions of this chapter and rules adopted by the Supreme Court.

Section 12. Section 1553(b)(1), (c), (d)(6), (8) and (9), (e) and (f) of Title 75 are amended and the section is amended by adding subsections to read:

§ 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, *treatment* or study. The petition shall identify the petitioner's employer, *educational institution or treatment facility, as appropriate*, and shall include proof of financial responsibility covering all vehicles which the petitioner requests to be allowed to operate. The department [may] *shall promulgate regulations to* require additional information as well as additional evidence to verify the information contained in the petition.

* * *

(c) Fee.—The fee for applying for an occupational limited license shall be [~~\$25~~] \$50. This fee shall be nonrefundable and no other fee shall be required.

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

* * *

(6) Any person who has been adjudicated delinquent, *granted a consent decree* or [convicted of] *granted Accelerated Rehabilitative Disposition for* driving under the influence of alcohol or controlled substance unless the suspension or revocation imposed for that conviction has been fully served.

* * *

(8) [Any] *Except as set forth in subsections (d.1) and (d.2), any* person who has been [granted a consent decree or Accelerated Rehabilitative Disposition for] *convicted of* 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] *Except as set forth in subsection (d.3), any* person whose 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.

* * *

(d.1) Adjudication eligibility.—An individual who has been convicted of an offense under section 3802 (relating to driving under influence of alcohol or controlled substance) and does not have a prior offense as defined in section 3806(a) (relating to prior offenses) shall be eligible for an occupational limited license only if the individual has served 60 days of the suspension imposed for the offense.

(d.2) Suspension eligibility.—

(1) An individual whose license has been suspended for a period of 18 months under section 1547(b)(1)(ii) (relating to chemical testing to determine amount of alcohol or controlled substance) or 3804(e)(2)(ii) (relating to penalties) shall not be prohibited from obtaining an occupational limited license under this section if the individual:

(i) is otherwise eligible for restoration;

(ii) has served 12 months of the suspension imposed for the offense;

(iii) has no more than one prior offense as defined in section 3806(b);

(iv) only operates a motor vehicle equipped with an ignition interlock system as defined in section 3801 (relating to definitions); and

(v) has certified to the department under paragraph (3).

(2) A period of ignition interlock accepted under this subsection shall not count towards the one-year mandatory period of ignition interlock imposed under section 3805 (relating to ignition interlock).

(3) If an individual seeks an occupational limited license under this subsection, the department shall require that each motor vehicle owned or registered to the person has been equipped with an ignition interlock system as defined in section 3801 as a condition of issuing an occupational limited license with an ignition interlock restriction.

(d.3) Suspension eligibility related to Title 18 violation.—An individual whose operating privilege has been suspended for a violation of 18 Pa.C.S. § 6308 shall be eligible for an occupational limited license unless the individual has previously violated 18 Pa.C.S. § 6308.

(e) Offenses committed during a period for which an occupational limited license has been issued.—Any driver who has been issued an occupational limited license and 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 or a report under section 3815(c)(4) (relating to mandatory sentencing) shall have the occupational limited license recalled, and the driver shall surrender the limited license to the department or its agents designated under the authority of section 1540.

(f) Restrictions.—A driver who has been issued an occupational limited license shall observe the following:

(1) The driver shall operate a designated vehicle only [between]:

(i) Between the driver's place of residence and place of employment or study and as necessary in the course of employment or conducting a business or pursuing a course of study where the operation of a motor vehicle is a requirement of employment or of conducting a business or of pursuing a course of study.

(ii) To and from a place for scheduled or emergency medical examination or treatment. This subparagraph includes treatment required under Chapter 38 (relating to driving after imbibing alcohol or utilizing drugs).

(2) A driver who has been issued an occupational limited license shall not operate a school bus.

(3) Any person who violates the conditions of issuance or restrictions of the occupational limited license commits a summary offense and shall, upon conviction, pay a fine of \$200 and, upon receipt of a certified record of conviction, the department shall recall the limited license.

(4) The operating privilege of a driver who has been issued an occupational limited license remains under suspension or revocation except when operating a motor vehicle in accordance with the conditions of issuance or restrictions of the occupational limited license.

(5) A driver who has been issued an occupational limited license shall possess a completed occupational limited license affidavit on a form prescribed by the department at all times when operating a motor vehicle. The driver shall exhibit the completed form upon demand by a police officer. The affidavit shall indicate that the driver is operating the motor vehicle at a time and between places in accordance with the restrictions of paragraph (1). An occupational limited license affidavit shall contain information required by regulations which shall be promulgated by the department. The driver is not required to possess a completed occupational limited license affidavit when operating a motor vehicle to a location for emergency medical treatment.

* * *

Section 13. Sections 1554(f)(8), 1575(b), 1586, 1611(a)(1), 3101(b), 3326(c), 3327(e), 3716(a) and 3731(a)(4)(i) and (a.1)(1)(i) of Title 75 are amended to read:

§ 1554. Probationary license.

* * *

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

* * *

(8) A person who has been convicted of a violation of section **[3731] 3802** (relating to driving under influence of alcohol or controlled substance) *or former section 3731*, within the preceding seven years.

* * *

§ 1575. Permitting violation of title.

* * *

(b) Penalty.—Any person violating the provisions of subsection (a) is guilty of a summary offense and is subject to the same fine as the driver of the vehicle. If the driver is convicted under section **[3731 (relating to driving under influence of alcohol or controlled substance) or] 3735** (relating to homicide by vehicle while driving under influence) *or 3802 (relating to driving under influence of alcohol or controlled substance)*, the person violating subsection (a) shall also be subject to suspension or revocation, as applicable, under sections 1532 (relating to revocation or suspension of operating privilege) **[and]**, 1542 (relating to revocation of habitual offender's license) *and 3804(e) (relating to penalties)*.

* * *

§ 1586. Duties of department.

The department shall, for purposes of imposing a suspension or revocation under Article IV of the compact, treat reports of convictions received from party states that relate to driving, operating or being in actual physical control of a vehicle while impaired by or under the influence of alcohol, intoxicating liquor, drugs, narcotics, controlled substances or other impairing or intoxicating substance as being substantially similar to section **[3731] 3802** (relating to driving under **[the]** influence of alcohol or

controlled substance). The fact that the offense reported to the department by a party state may require a different degree of impairment of a person's ability to operate, drive or control a vehicle than that required to support a conviction for a violation of section [3731] 3802 shall not be a basis for determining that the party state's offense is not substantially similar to section [3731] 3802 for purposes of Article IV of the compact.

§ 1611. Disqualification.

(a) Disqualification for first violation of certain offenses.—Upon receipt of a certified copy of conviction, the department shall, in addition to any other penalties imposed under this title, disqualify any person from driving a commercial motor vehicle or school vehicle for a period of one year for the first violation of:

(1) section [3731] 3802 (relating to driving under [the] influence of alcohol or controlled substance) or former section 3731, where the violation occurred while the person was operating a commercial motor vehicle or school vehicle;

* * *

§ 3101. Application of part.

* * *

(b) Serious traffic offenses.—The provisions of section 3345 (relating to meeting or overtaking school bus) [and], Subchapter B of Chapter 37 (relating to serious traffic offenses) and Chapter 38 (relating to driving after imbibing alcohol or utilizing drugs) shall apply upon highways and trafficways throughout this Commonwealth.

§ 3326. Duty of driver in construction and maintenance areas or on highway safety corridors.

* * *

(c) Fines to be doubled.— For any of the following violations, when committed in an active work zone manned by workers acting in their official capacity or on a highway safety corridor designated under section 6105.1 (relating to designation of highway safety corridors), the fine shall be double the usual amount:

Section 3102 (relating to obedience to authorized persons directing traffic).

Section 3111 (relating to obedience to traffic-control devices).

Section 3112 (relating to traffic-control signals).

Section 3114 (relating to flashing signals).

Section 3302 (relating to meeting vehicle proceeding in opposite direction).

Section 3303 (relating to overtaking vehicle on the left).

Section 3304 (relating to overtaking vehicle on the right).

Section 3305 (relating to limitations on overtaking on the left).

Section 3306 (relating to limitations on driving on left side of roadway).

Section 3307 (relating to no-passing zones).

Section 3309 (relating to driving on roadways laned for traffic).

Section 3310 (relating to following too closely).

Section 3323 (relating to stop signs and yield signs).

Section 3326 (relating to duty of driver in construction and maintenance areas).

Section 3361 (relating to driving vehicle at safe speed).

Section 3362 (relating to maximum speed limits).

Section 3702 (relating to limitations on backing).

Section 3714 (relating to careless driving).

[Section 3715 (relating to restriction on alcoholic beverages).

Section 3731 (relating to driving under influence of alcohol or controlled substance).]

Section 3736 (relating to reckless driving).

Section 3802 (relating to driving under influence of alcohol or controlled substance).

* * *

§ 3327. Duty of driver in emergency response areas.

* * *

(e) Fines to be doubled.—In addition to any penalty as provided in subsection (b), the fine for any of the following violations when committed in an emergency response area manned by emergency service responders shall be double the usual amount:

Section 3102 (relating to obedience to authorized persons directing traffic).

Section 3111 (relating to obedience to traffic-control devices).

Section 3114 (relating to flashing signals).

Section 3302 (relating to meeting vehicle proceeding in opposite direction).

Section 3303 (relating to overtaking vehicle on the left).

Section 3304 (relating to overtaking vehicle on the right).

Section 3305 (relating to limitations on overtaking on the left).

Section 3306 (relating to limitations on driving on left side of roadway).

Section 3307 (relating to no-passing zones).

Section 3310 (relating to following too closely).

Section 3312 (relating to limited access highway entrances and exits).

Section 3323 (relating to stop signs and yield signs).

Section 3325 (relating to duty of driver on approach of emergency vehicle).

Section 3361 (relating to driving vehicle at safe speed).

Section 3707 (relating to driving or stopping close to fire apparatus).

Section 3710 (relating to stopping at intersection or crossing to prevent obstruction).

Section 3714 (relating to careless driving).

[Section 3715.1 (relating to restriction on alcoholic beverages).

Section 3731 (relating to driving under influence of alcohol or controlled substance).]

Section 3736 (relating to reckless driving).

Section 3802 (relating to driving under influence of alcohol or controlled substance).

§ 3716. Accidents involving overturned vehicles.

(a) Speeding, careless driving, etc.—If a commercial motor vehicle overturns in an accident resulting from a violation of section 3361 (relating to driving vehicle at safe speed), 3362 (relating to maximum speed limits), 3714 (relating to careless driving) or [3731] 3802 (relating to driving under influence of alcohol or controlled substance), the operator of the vehicle shall, upon conviction of any of the aforementioned offenses, be sentenced to pay a fine of \$2,000, in addition to any other penalty authorized by law.

§ 3731. Driving under influence of alcohol or controlled substance.

(a) Offense defined.—A person shall not drive, operate or be in actual physical control of the movement of a vehicle in any of the following circumstances:

(4) While the amount of alcohol by weight in the blood of:

(i) an adult is [0.10%] 0.08% or greater; or

(a.1) Prima facie evidence.—

(1) It is prima facie evidence that:

(i) an adult had [0.10%] 0.08% or more by weight of alcohol in his or her blood at the time of driving, operating or being in actual physical control of the movement of any vehicle if the amount of alcohol by weight in the blood of the person is equal to or greater than [0.10%] 0.08% at the time a chemical test is performed on a sample of the person's breath, blood or urine;

Section 14. Section 3731 of Title 75 is repealed.

Section 15. Sections 3732(a), 3735(a), 3735.1(a) and 3755(a) of Title 75 are amended to read:

§ 3732. Homicide by vehicle.

(a) Offense.—Any person who recklessly or with gross negligence causes the death of another person while engaged in the violation of any law of this Commonwealth or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic except section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is guilty of homicide by vehicle, a felony of the third degree, when the violation is the cause of death.

§ 3735. Homicide by vehicle while driving under influence.

(a) Offense defined.—Any person who unintentionally causes the death of another person as the result of a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section [3731] 3802 is guilty of a felony of the 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. A consecutive three-year term of imprisonment shall be imposed for each victim whose death is the result of the violation of section [3731] 3802.

* * *

§ 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] 3802 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section [3731] 3802 commits a felony of the second degree when the violation is the cause of the injury.

* * *

§ 3755. Reports by emergency room personnel.

(a) General rule.—If, as a result of a motor vehicle accident, the person who drove, operated or was in actual physical control of the movement of any involved motor vehicle requires medical treatment in an emergency room of a hospital and if probable cause exists to believe a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) was involved, the emergency room physician or his designee shall promptly take blood samples from those persons and transmit them within 24 hours for testing to the Department of Health or a clinical laboratory licensed and approved by the Department of Health and specifically designated for this purpose. This section shall be applicable to all injured occupants who were capable of motor vehicle operation if the operator or person in actual physical control of the movement of the motor vehicle cannot be determined. Test results shall be released upon request of the person tested, his attorney, his physician or governmental officials or agencies.

* * *

Section 16. Title 75 is amended by adding a chapter to read:

CHAPTER 38

DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING DRUGS

Sec.

3801. Definitions.

3802. Driving under influence of alcohol or controlled substance.

3803. Grading.

3804. Penalties.

- 3805. Ignition interlock.
- 3806. Prior offenses.
- 3807. Accelerated Rehabilitative Disposition.
- 3808. Illegally operating a motor vehicle not equipped with ignition interlock.
- 3809. Restriction on alcoholic beverages.
- 3810. Authorized use not a defense.
- 3811. Certain arrests authorized.
- 3812. Preliminary hearing or arraignment.
- 3813. Work release.
- 3814. Drug and alcohol assessments.
- 3815. Mandatory sentencing.
- 3816. Requirements for driving under influence offenders.
- 3817. Reporting requirements for offenses.

§ 3801. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Adult.” An individual who is at least 21 years of age.

“Ignition interlock system.” A system approved by the department which prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level less than 0.025%.

“Minor.” An individual who is under 21 years of age.

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

(a) General impairment.—

(1) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle.

(2) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual’s blood or breath is at least 0.08% but less than 0.10% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(b) High rate of alcohol.—An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual’s blood or breath is at least 0.10% but less than 0.16% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(c) Highest rate of alcohol.—An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a

sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is 0.16% or higher within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(d) **Controlled substances.**—An individual may not drive, operate or be in actual physical control of the movement of a vehicle under any of the following circumstances:

(1) There is in the individual's blood any amount of a:

(i) Schedule I controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act;

(ii) Schedule II or Schedule III controlled substance, as defined in The Controlled Substance, Drug, Device and Cosmetic Act, which has not been medically prescribed for the individual; or

(iii) metabolite of a substance under subparagraph (i) or (ii).

(2) The individual is under the influence of a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

(3) The individual is under the combined influence of alcohol and a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

(4) The individual is under the influence of a solvent or noxious substance in violation of 18 Pa.C.S. § 7303 (relating to sale or illegal use of certain solvents and noxious substances).

(e) **Minors.**—A minor may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the minor's blood or breath is 0.02% or higher within two hours after the minor has driven, operated or been in actual physical control of the movement of the vehicle.

(f) **Commercial or school vehicles.**—An individual may not drive, operate or be in actual physical control of the movement of a commercial vehicle, school bus or school vehicle in any of the following circumstances:

(1) After the individual has imbibed a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is:

(i) 0.04% or greater within two hours after the individual has driven, operated or been in actual physical control of the movement of a commercial vehicle other than a school bus or a school vehicle.

(ii) 0.02% or greater within two hours after the individual has driven, operated or been in actual physical control of the movement of a school bus or a school vehicle.

(2) After the individual has imbibed a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle.

(3) While the individual is under the influence of a controlled substance or combination of controlled substances, as defined in section 1603 (relating to definitions).

(4) While the individual is under the combined influence of alcohol and a controlled substance or combination of controlled substances, as defined in section 1603.

(g) Exception to two-hour rule.—Notwithstanding the provisions of subsection (a), (b), (c), (e) or (f), where alcohol or controlled substance concentration in an individual's blood or breath is an element of the offense, evidence of such alcohol or controlled substance concentration more than two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle is sufficient to establish that element of the offense under the following circumstances:

(1) where the Commonwealth shows good cause explaining why the chemical test could not be performed within two hours; and

(2) where the Commonwealth establishes that the individual did not imbibe any alcohol or utilize a controlled substance between the time the individual was arrested and the time the sample was obtained.

§ 3803. Grading.

(a) Basic offenses.—

(1) An individual who violates section 3802(a) (relating to driving under influence of alcohol or controlled substance) and has no more than one prior offense commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804 (relating to penalties).

(2) An individual who violates section 3802(a) and has more than one prior offense commits a misdemeanor of the second degree.

(b) Other offenses.—

(1) An individual who violates section 3802(b), (e) or (f) and who has no more than one prior offense commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804.

(2) An individual who violates section 3802(c) or (d) and who has no prior offenses commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804.

(3) An individual who violates section 3802(b), (e) or (f) and who has more than one prior offense commits a misdemeanor of the first degree.

(4) An individual who violates section 3802(c) or (d) and who has one or more prior offenses commits a misdemeanor of the first degree.

§ 3804. Penalties.

(a) General impairment.—An individual who violates section 3802(a) (relating to driving under influence of alcohol or controlled substance) shall be sentenced as follows:

(1) For a first offense, to:

- (i) undergo a period of probation not to exceed six months;
- (ii) pay a fine of \$300;
- (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 (relating to drug and alcohol assessments) and 3815 (relating to mandatory sentencing).

(2) For a second offense, to:

- (i) undergo imprisonment for not less than five days nor more than six months;
- (ii) pay a fine of not less than \$300 nor more than \$2,500;
- (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 ten days nor more than two years;
- (ii) pay a fine of not less than \$500 nor more than \$5,000; and
- (iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(b) High rate of blood alcohol; minors; commercial vehicles and school buses and school vehicles; accidents.—Except as set forth in subsection (c), an individual who violates section 3802(a)(1) where there was an accident resulting in bodily injury, serious bodily injury or death of any person or damage to a vehicle or other property or who violates section 3802(b), (e) or (f) shall be sentenced as follows:

(1) For a first offense, to:

- (i) undergo imprisonment of not less than 48 consecutive hours nor more than six months;
- (ii) pay a fine of not less than \$500 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 30 days nor more than six months;
- (ii) pay a fine of not less than \$750 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.

(3) For a third offense, to:

(i) undergo imprisonment of not less than 90 days nor more than five years;

(ii) pay a fine of not less than \$1,500 nor more than \$10,000; and

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

(4) For a fourth or subsequent offense, to:

(i) undergo imprisonment of not less than one year nor more than five years;

(ii) pay a fine of not less than \$1,500 nor more than \$10,000; and

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

(c) Incapacity; highest blood alcohol; controlled substances.—An individual who violates section 3802(a)(1) and refused testing of blood or breath 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 nor more than six months;

(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 nor more than five years;

(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 nor more than five years;

(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.

(d) Extended supervision of court.—If a person is sentenced pursuant to this chapter and, after the initial assessment required by section 3814(1), the person is determined to be in need of additional treatment pursuant to section 3814(2), the judge shall impose a minimum sentence as provided by law and a maximum sentence equal to the statutorily available maximum. A sentence to the statutorily available maximum imposed pursuant to this subsection may, in the discretion of the sentencing court, be ordered to be

served in a county prison, notwithstanding the provisions of 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

(e) Suspension of operating privileges upon conviction.—

(1) The department shall suspend the operating privilege of an individual under paragraph (2) upon receiving a certified record of the individual's conviction of or an adjudication of delinquency for:

(i) an offense under section 3802; or

(ii) an offense which is substantially similar to an offense enumerated in section 3802 reported to the department under Article III of the compact in section 1581 (relating to Driver's License Compact).

(2) Suspension under paragraph (1) shall be in accordance with the following:

(i) Except as provided for in subparagraph (iii), 12 months for an ungraded misdemeanor or misdemeanor of the second degree under this chapter.

(ii) 18 months for a misdemeanor of the first degree under this chapter.

(iii) There shall be no suspension for an ungraded misdemeanor under section 3802(a) where the person is subject to the penalties provided in subsection (a) and the person has no prior offense.

(iv) For suspensions imposed under paragraph (1)(ii), notwithstanding any provision of law or enforcement agreement to the contrary, all of the following apply:

(A) Suspensions shall be in accordance with Subchapter D of Chapter 15 (relating to the Driver's License Compact).

(B) In calculating the term of a suspension for an offense that is substantially similar to an offense enumerated in section 3802, the department shall presume that if the conduct reported had occurred in this Commonwealth then the person would have been convicted under section 3802(a)(2).

(v) Notwithstanding any other provision of law or enforcement agreement to the contrary, the department shall suspend the operating privilege of a driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section 3802.

(f) Community service assignments.—In addition to the penalties set forth in this section, the sentencing judge may impose up to 150 hours of community service. Where the individual has been ordered to drug and alcohol treatment pursuant to sections 3814 and 3815, the community service shall be certified by the drug and alcohol treatment program as consistent with any drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(g) Sentencing guidelines.—The sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory penalties of this section.

(h) Appeal.—The Commonwealth has the right to appeal directly to the Superior Court any order of court which imposes a sentence for violation of this section which does not meet the requirements of this section. The Superior Court shall remand the case to the sentencing court for imposition of a sentence in accordance with the provisions of this section.

(i) First class cities.—Notwithstanding the provision for direct appeal to the Superior Court, if, in a city of the first class, a person appeals from a judgment of sentence under this section from the municipal court to the common pleas court for a trial de novo, the Commonwealth shall have the right to appeal directly to the Superior Court from the order of the common pleas court if the sentence imposed is in violation of this section. If, in a city of the first class, a person appeals to the court of common pleas after conviction of a violation of this section in the municipal court and thereafter withdraws his appeal to the common pleas court, thereby reinstating the judgment of sentence of the municipal court, the Commonwealth shall have 30 days from the date of the withdrawal to appeal to the Superior Court if the sentence is in violation of this section.

(j) Additional conditions.—In addition to any other penalty imposed under law, the court may sentence a person who violates section 3802 to any other requirement or condition consistent with the treatment needs of the person, the restoration of the victim to preoffense status or the protection of the public.

§ 3805. Ignition interlock.

(a) General rule.—If a person violates section 3802 (relating to driving under influence of alcohol or controlled substance) and has a prior offense as defined in section 3806(a) (relating to prior offenses) or if a person has had their operating privileges suspended pursuant to section 1547(b.1) (relating to chemical testing to determine amount of alcohol or controlled substance) or 3808(c) (relating to illegally operating a motor vehicle not equipped with ignition interlock) and the person seeks a restoration of operating privileges, the department shall require as a condition of issuing a restricted license pursuant to this section that the following occur:

(1) Each motor vehicle owned by the person or registered to the person has been equipped with an ignition interlock system and remains so for the duration of the restricted license period.

(2) If there are no motor vehicles owned by the person or registered to the person that the person so certify to the department. A person so certifying shall be deemed to have satisfied the requirement that all motor vehicles owned by the person or registered to the person be equipped with an ignition interlock system as required by this subsection.

(b) Application for a restricted license.—A person subject to this section shall apply to the department for an ignition interlock restricted license under section 1951 (relating to driver's license and learner's permit), which shall be clearly marked to restrict the person to only driving, operating or being in actual physical control of the movement of motor vehicles equipped with an ignition interlock system. Upon issuance of an ignition interlock restricted license to any person, the department shall notify the person that until the person obtains an unrestricted license the person may not own, register, drive, operate or be in actual physical control of the movement of any motor vehicle which is not equipped with an ignition interlock system.

(c) Issuance of unrestricted license.—One year from the date of issuance of an ignition interlock restricted license under this section, if otherwise eligible, a person may be issued a replacement license under section 1951(d) that does not contain the ignition interlock system restriction.

(d) Prohibition.—Except as set forth in subsections (e) and (f), until the person obtains an unrestricted license, the person may not own, register, drive, operate or be in actual physical control of the movement of any motor vehicle within this Commonwealth unless the motor vehicle is equipped with an ignition interlock system.

(e) Economic hardship exemption.—A person subject to the requirements of subsection (a) may apply to the department for a hardship exemption to the requirement that an ignition interlock system must be installed in each of the person's motor vehicles. Where the department determines that the applicant establishes that such a requirement would result in undue financial hardship, the department may permit the applicant to install an ignition interlock system on only one of the applicant's motor vehicles. However, the applicant in accordance with section 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock) shall be prohibited from driving, operating or being in actual physical control of the movement of any motor vehicle, including any of the applicant's motor vehicles, which is not equipped with an ignition interlock system.

(f) Employment exemption.—If a person with a restricted license is required in the course and scope of employment to drive, operate or be in actual physical control of the movement of a motor vehicle owned by the person's employer, the following apply:

(1) Except as set forth in paragraph (2), the person may drive, operate or be in actual physical control of the movement of that motor vehicle in the course and scope of employment without installation of an ignition interlock system if:

(i) the employer has been notified that the employee is restricted; and

(ii) the employee has proof of the notification in the employee's possession while driving, operating or being in actual physical control of the movement of the employer's motor vehicle. Proof of the

notification may be established only by the notarized signature of the employer acknowledging notification on a form which shall be provided by the department for this purpose and shall include a contact telephone number of the employer.

(2) Paragraph (1) does not apply in any of the following circumstances:

(i) To the extent that an employer-owned motor vehicle is made available to the employee for personal use.

(ii) If the employer-owned motor vehicle is owned by an entity which is wholly or partially owned by the person subject to this section.

(iii) If the employer-owned motor vehicle is a school bus; a school vehicle; or a vehicle designed to transport more than 15 passengers, including the driver.

(g) Prohibition of authorization.—This section shall not give the department authorization to impose an ignition interlock requirement on a person that has committed an offense under former section 3731 prior to October 1, 2003, without the issuance of a court order.

(h) Department approval.—An ignition interlock system required to be installed under this title must be a system which has been approved by the department. The department's approval of ignition interlock systems shall be published in the Pennsylvania Bulletin. Systems approved for use under former 42 Pa.C.S. § 7002(d) (relating to ignition interlock systems for driving under the influence) and any contracts for the installation, maintenance and inspection of the systems in effect as of the effective date of this section shall continue to be approved and in effect until the department again publishes approval of ignition interlock systems in the Pennsylvania Bulletin and enters into new contracts in support of the systems.

(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.

§ 3806. Prior offenses.

(a) General rule.—Except as set forth in subsection (b), the term “prior offense” as used in this chapter shall mean a conviction, adjudication of delinquency, juvenile consent decree, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition before the sentencing on the present violation for any of the following:

- (1) an offense under section 3802 (relating to driving under influence of alcohol or controlled substance);
- (2) an offense under former section 3731;
- (3) an offense substantially similar to an offense under paragraphs (1) or (2) in another jurisdiction; or
- (4) any combination of the offenses set forth in paragraphs (1), (2) or (3).

(b) Repeat offenses within ten years.—The calculation of prior offenses for purposes of sections 1553(d.2) (relating to occupational limited license) and 3804 (relating to penalties) shall include any conviction, adjudication of delinquency, juvenile consent decree, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition within the ten years before the present violation occurred for any of the following:

- (1) an offense under section 3802;
- (2) an offense under former section 3731;
- (3) an offense substantially similar to an offense under paragraph (1) or (2) in another jurisdiction; or
- (4) any combination of the offenses set forth in paragraph (1), (2) or (3).

§ 3807. Accelerated Rehabilitative Disposition.

(a) Eligibility.—

(1) Except as set forth in paragraph (2), a defendant charged with a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) may be considered by the attorney for the Commonwealth for participation in an Accelerated Rehabilitative Disposition program in a county if the program includes the minimum requirements contained in this section.

(2) The attorney for the Commonwealth shall not submit a charge brought under this chapter for Accelerated Rehabilitative Disposition if any of the following apply:

(i) The defendant has been found guilty of or accepted Accelerated Rehabilitative Disposition of a charge brought under section 3802 within ten years of the date of the current offense unless the charge was for an ungraded misdemeanor under section 3802(a)(2) and was the defendant’s first offense under section 3802.

(ii) An accident occurred in connection with the events surrounding the current offense and an individual other than the

defendant was killed or suffered serious bodily injury as a result of the accident.

(iii) There was a passenger under 14 years of age in the motor vehicle the defendant was operating.

(b) Evaluation and treatment.—

(1) A defendant offered Accelerated Rehabilitative Disposition for a violation of section 3802 is, as a condition of participation in the program, subject to the following requirements in addition to any other conditions of participation imposed by the court:

(i) The defendant must attend and successfully complete an alcohol highway safety school established under section 1549 (relating to establishment of schools). A participating defendant shall be given both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked).

(ii) Prior to receiving Accelerated Rehabilitative Disposition or other preliminary disposition, the defendant must be evaluated under section 3816(a) (relating to requirements for driving under influence offenders) to determine the extent of the defendant's involvement with alcohol or other drug and to assist the court in determining what conditions of Accelerated Rehabilitative Disposition would benefit the defendant and the public. If the evaluation indicates there is a need for counseling or treatment, the defendant shall be subject to a full assessment for alcohol and drug addiction in accordance with the provisions of section 3814(3) and (4) (relating to drug and alcohol assessments).

(iii) If the defendant is assessed under subparagraph (ii) to be in need of treatment, the defendant must participate and cooperate with a licensed alcohol or drug addiction treatment program. The level and duration of treatment shall be in accordance with the recommendations of the full assessment. Nothing in this subparagraph shall prevent a treatment program from refusing to accept a defendant if the program administrator deems the defendant to be inappropriate for admission to the program. A treatment program shall retain the right to immediately discharge into the custody of the probation officer an offender who fails to comply with program rules and treatment expectations or refuses to constructively engage in the treatment process.

(iv) The defendant must remain subject to court supervision for six months.

(v) The defendant must make restitution to any person that incurred determinable financial loss as a result of the defendant's actions which resulted in the offense. Restitution must be subject to court supervision.

(vi) The defendant must pay the reasonable costs of a municipal corporation in connection with the offense. Fees imposed under this subparagraph shall be distributed to the affected municipal corporation.

(vii) The defendant must pay any other fee, surcharge or cost required by law. Except as set forth in subparagraph (vi) or (viii), a fee or financial condition imposed by a judge as a condition of Accelerated Rehabilitative Disposition or any other preliminary disposition of any charge under this chapter shall be distributed as provided for in 42 Pa.C.S. §§ 3571 (relating to Commonwealth portion of fines, etc.) and 3573 (relating to municipal corporation portion of fines, etc.).

(viii) The defendant must pay the costs of compliance with subparagraphs (i), (ii) and (iii).

(2) The defendant shall be subject to a full assessment for alcohol and drug addiction if any of the following apply:

(i) The evaluation under paragraph (1)(ii) indicates a likelihood that the defendant is addicted to alcohol or other drugs.

(ii) The defendant's blood alcohol content at the time of the offense was at least 0.16%.

(3) The assessment under paragraph (2) shall be conducted by one of the following:

(i) The Department of Health or its designee.

(ii) The county agency with responsibility for county drug and alcohol programs or its designee.

(iii) The clinical personnel of a facility licensed by the Department of Health for the conduct of drug and alcohol addiction treatment programs.

(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:

(i) Length of stay.

(ii) Levels of care.

(iii) Follow-up care and monitoring.

(c) Insurance.—

(1) This subsection shall only apply to a health insurance, health maintenance organization or other health plan required to provide benefits under section 602-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2) If an individual who is insured by a health insurance, a health maintenance organization or other health plan, that is doing business in this Commonwealth, the individual may not be deprived of alcohol and other drug abuse and addiction treatment or coverage within the scope of that plan due to the identification of an alcohol or other drug problem which occurs as a result of an assessment under this section.

(d) Mandatory suspension of operating privileges.—As a condition of participation in an Accelerated Rehabilitative Disposition program, the court shall order the defendant's license suspended as follows:

(1) There shall be no license suspension if the defendant's blood alcohol concentration at the time of testing was less than 0.10%.

(2) For 30 days if the defendant's blood alcohol concentration at the time of testing was at least 0.10% but less than 0.16%.

(3) For 60 days if:

(i) the defendant's blood alcohol concentration at the time of testing was 0.16% or higher;

(ii) the defendant's blood alcohol concentration is not known; or

(iii) an accident which resulted in bodily injury or in damage to a vehicle or other property occurred in connection with the events surrounding the current offense.

(e) Failure to comply.—

(1) A defendant who fails to complete any of the conditions of participation contained in this section shall be deemed to have unsuccessfully participated in an Accelerated Rehabilitative Disposition program, and the criminal record underlying participation in the program shall not be expunged.

(2) The court shall direct the attorney for the Commonwealth to proceed on the charges as prescribed in the Rules of Criminal Procedure if the defendant:

(i) fails to meet any of the requirements of this section;

(ii) is charged with or commits an offense under 18 Pa.C.S. (relating to crimes and offenses); or

(iii) violates any other condition imposed by the court.

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

(a) Offense defined.—

(1) An individual required to only drive, operate or be in actual physical control of the movement of a motor vehicle equipped with an ignition interlock system under section 1553(d.2) (relating to occupational limited license) or 3805 (relating to ignition interlock) who drives, operates or is in actual physical control of the movement of a motor vehicle within this Commonwealth without such a system commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$300 and not more than \$1,000 and to imprisonment for not more than 90 days.

(2) An individual required to only drive, operate or be in actual physical control of the movement of a motor vehicle equipped with an ignition interlock system under section 1553(d.2) or 3805 who drives, operates or is in actual physical control of the movement of a motor vehicle within this Commonwealth without such a system and who has an amount of alcohol by weight in his blood that is equal to or greater

than 0.025% at the time of testing or who has in his blood any amount of a Schedule I or nonprescribed Schedule II or III controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or its metabolite commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of not less than 90 days.

(b) Tampering with an ignition interlock system.—A person that tampers with an ignition interlock system required by law commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than \$300 nor more than \$1,000 and to undergo imprisonment for not more than 90 days. The term “tampering,” in addition to any physical act which is intended to alter or interfere with the proper functioning of an ignition interlock system required by law, shall include attempting to circumvent or bypass or circumventing or bypassing an ignition interlock system by:

- (1) means of using another individual to provide a breath sample; or
- (2) providing a breath sample for the purpose of bypassing an ignition interlock system required by law.

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

(1) If 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 violates this section, upon receipt of a certified record of the conviction, the department shall not issue a replacement license to the person under section 1951(d) (relating to driver’s license and learner’s permit) that does not contain an ignition interlock restriction for a period of one year from the date of conviction.

(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 recall¹ 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.

¹ “year, recall” in enrolled bill.

(d) **Applicability.**—Notwithstanding section 3101 (relating to application of part), this section shall apply in all areas throughout this Commonwealth; however, it shall not apply to persons installing, maintaining or inspecting ignition interlock devices in the course and scope of their employment.

§ 3809. **Restriction on alcoholic beverages.**

(a) **General rule.**—Except as set forth in subsection (b), an individual who is an operator or an occupant in a motor vehicle may not be in possession of an open alcoholic beverage container or consume a controlled substance as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or an alcoholic beverage in a motor vehicle while the motor vehicle is located on a highway in this Commonwealth.

(b) **Exception.**—This section does not prohibit possession or consumption by any of the following:

(1) A passenger in the passenger area of a motor vehicle designed, maintained or used primarily for the lawful transportation of persons for compensation. This paragraph includes buses, taxis and limousines.

(2) An individual in the living quarters of a house coach or house trailer.

(c) **Penalty.**—An individual who violates this section commits a summary offense.

§ 3810. **Authorized use not a defense.**

The fact that a person charged with violating this chapter is or has been legally entitled to use alcohol or controlled substances is not a defense to a charge of violating this chapter.

§ 3811. **Certain arrests authorized.**

(a) **Warrant not required.**—In addition to any other powers of arrest, a police officer is authorized to arrest an individual without a warrant if the officer has probable cause to believe that the individual has violated 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), regardless of whether the alleged violation was committed in the presence of the police officer.

(b) **Territory.**—The authority under subsection (a) extends to any hospital or other medical treatment facility located beyond the territorial limits of the police officer's political subdivision at which an individual to be arrested is found or was taken or removed for purposes of emergency treatment, examination or evaluation as long as there is probable cause to believe that the violation of section 1543(b)(1.1), 3802 or 3808(a)(2) occurred within the police officer's political subdivision.

§ 3812. **Preliminary hearing or arraignment.**

The presiding judicial officer at the preliminary hearing or preliminary arraignment relating to a charge of a 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) shall not reduce or modify the original charges without the consent of the attorney for the Commonwealth.

§ 3813. Work release.

In any case in which an individual is sentenced to a period of imprisonment as a result of a conviction for violating a provision of this chapter, the judicial officer imposing the sentence shall consider assigning that individual to a daytime work release program. Any work release program permitted under this section shall be certified by the Drug and Alcohol Treatment program administration as being consistent with any drug and alcohol treatment requirements imposed under section 3814 (relating to drug and alcohol assessments).

§ 3814. Drug and alcohol assessments.

If a defendant is convicted or pleads guilty or no contest to a violation of section 3802 (relating to driving under influence of alcohol or controlled substance), the following apply prior to sentencing:

(1) The defendant shall be evaluated under section 3816(a) (relating to requirements for driving under influence offenders) and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the defendant's involvement with alcohol or other drug and to assist the court in determining what type of sentence would benefit the defendant and the public.

(2) The defendant shall be subject to a full assessment for alcohol and drug addiction if any of the following subparagraphs apply:

(i) The defendant, within ten years prior to the offense for which sentence is being imposed, has been sentenced for an offense under:

(A) section 3802;

(B) former section 3731; or

(C) an equivalent offense in another jurisdiction.

(ii) Either:

(A) the evaluation under paragraph (1) indicates there is a need for counseling or treatment; or

(B) the defendant's blood alcohol content at the time of the offense was at least 0.16%.

(3) The assessment under paragraph (2) shall be conducted by one of the following:

(i) The Department of Health or its designee.

(ii) The county agency with responsibility for county drug and alcohol programs or its designee.

(iii) The clinical personnel of a facility licensed by the Department of Health for the conduct of drug and alcohol addiction treatment programs.

(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:

- (i) Length of stay.
- (ii) Levels of care.
- (iii) Follow-up care and monitoring.

§ 3815. Mandatory sentencing.

(a) County supervision.—Notwithstanding the length of any maximum term of imprisonment imposed pursuant to sections 3803 (relating to grading) and 3804 (relating to penalties), and notwithstanding the provisions of section 17 of the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, the sentencing judge may grant parole under the supervision of the county parole system to any offender serving a sentence for a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) and, if applicable, serving any concurrent sentence of imprisonment for any misdemeanor offense arising from the same criminal episode as the violation of section 3802. The power of the sentencing judge to grant parole shall apply only to those offenders whose sentences are being served in a county prison pursuant to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement) or section 3804(d).

(b) Parole.—

(1) An offender who is determined pursuant to section 3814 (relating to drug and alcohol assessments) to be in need of drug and alcohol treatment shall be eligible for parole in accordance with the terms and conditions prescribed in this section following the expiration of the offender's mandatory minimum term of imprisonment.

(2) The following shall be conditions of parole:

(i) If the offender is not determined under the procedures set forth in section 3814 to be addicted to alcohol or another substance, the offender must refrain from:

(A) the use of illegal controlled substances; and

(B) the abuse of prescription drugs, over-the-counter drugs or any other substances.

(ii) If the offender is determined under the procedures set forth in section 3814 to be addicted to alcohol or another substance, the offender must do all of the following:

(A) Refrain from:

(I) the use of alcohol or illegal controlled substances; and

(II) the abuse of prescription drugs, over-the-counter drugs or any other substances.

(B) Participate in and cooperate with drug and alcohol addiction treatment under subsection (c).

(c) Treatment.—

(1) Treatment must conform to assessment recommendations made under section 3814.

(2) Treatment must be conducted by a drug and alcohol addiction treatment program licensed by the Department of Health.

(3) The treatment program shall report periodically to the assigned parole officer on the offender's progress in the treatment program. The treatment program shall promptly notify the parole officer if the offender:

- (i) fails to comply with program rules and treatment expectations;
- (ii) refuses to constructively engage in the treatment process; or
- (iii) without authorization terminates participation in the treatment program.

(4) Upon notification under paragraph (3), the parole officer shall report the offender's actions to the parole authority and to the department for compliance with section 1553(e) (relating to occupational limited license). The parole authority shall schedule a revocation hearing to consider recommendations of the parole officer and the treatment program.

(5) Nothing in this subsection shall prevent a treatment program from refusing to accept an offender if the program administrator deems the offender to be inappropriate for admission to the program. A treatment program shall retain the right to immediately discharge into the custody of the assigned parole officer an offender who fails to comply with program rules and treatment expectations or refuses to constructively engage in the treatment process.

(d) Enforcement.—

(1) This subsection applies to an offender ordered to participate in a treatment program under subsection (b)(2)(ii) who:

- (i) fails to comply with program rules and treatment expectations;
- (ii) refuses to constructively engage in the treatment process; or
- (iii) terminates participation in the treatment program without authorization.

(2) Notwithstanding any other provision of law, all of the following apply to an offender under paragraph (1):

- (i) The offender's parole, prerelease, work release or any other release status shall be revoked.
- (ii) The offender shall be ineligible for parole, prerelease, work release or any other release from the correctional facility prior to the expiration of the offender's maximum term unless the offender is permitted to be readmitted to a treatment program.

(3) Nothing in this subsection shall be construed to grant a legal right to parole to an offender previously ineligible for parole, on the grounds that the offender is currently prepared to participate in, comply with and constructively engage in the treatment process. Under such circumstances, parole or reparole of the offender shall be at the parole authority's discretion.

(e) Follow-up.—After an offender has completed the treatment program under subsection (c), the parole officer shall take reasonable steps to ensure that the offender does not abuse alcohol, use illegal controlled substances or abuse prescription drugs, over-the-counter drugs or any other such substances. These reasonable steps include requiring chemical testing and periodic reassessment of the offender by the treatment program.

(f) Fees.—

(1) Except as set forth in paragraph (2), the parole authority shall impose upon an offender subject to this section reasonable fees to cover the cost of any of the following:

(i) Chemical testing of the offender required under this section.

(ii) An assessment of the offender required under this section.

(iii) Drug or alcohol treatment provided in accordance with the assessment.

(2) If the parole authority finds the offender to be unable to pay the full amount of the fees required by paragraph (1) and section 1541(d) (relating to period of disqualification, revocation or suspension of operating privilege), it shall require the offender to pay as much of the fee as is consistent with the offender's ability to pay and shall direct the assigned parole officer to establish a reasonable payment schedule for the offender to pay as much of the remaining fees as is consistent with the offender's ability to pay.

(g) Insurance.—

(1) This subsection shall only apply to a health insurance, health maintenance organization or other health plan required to provide benefits under section 602-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2) If an individual who is insured by a health insurance, a health maintenance organization or other health plan, that is doing business in this Commonwealth, the individual may not be deprived of alcohol and other drug abuse and addiction treatment or coverage within the scope of that plan due to the identification of an alcohol or other drug problem which occurs as a result of an assessment under this section.

(h) Additional funding.—In order to support and augment the diagnostic assessment and treatment services provided under this section, the Department of Health, the department and the Pennsylvania Commission on Crime and Delinquency shall seek all available Federal funding, including funds available through the United States National Highway Traffic Safety Administration and the Department of Health and Human Services.

§ 3816. Requirements for driving under influence offenders.

(a) Evaluation using Court Reporting Network.—In addition to any other requirements of the court, every person convicted of a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) and every person offered Accelerated Rehabilitative Disposition

as a result of a charge of a violation of section 3802 shall, prior to sentencing or receiving Accelerated Rehabilitative Disposition or other preliminary disposition, be evaluated using Court Reporting Network instruments issued by the department and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the person's involvement with alcohol or controlled substances and to assist the court in determining what sentencing, probation or conditions of Accelerated Rehabilitative Disposition would benefit the person or the public.

(b) Court-ordered intervention or treatment.—A record shall be submitted to the department as to whether the court did or did not order a defendant to attend drug and alcohol treatment pursuant to the requirements of sections 3804 (relating to penalties), 3814 (relating to drug and alcohol assessments) and 3815 (relating to mandatory sentencing). If the court orders treatment, a report shall be forwarded to the department as to whether the defendant successfully completed the program. If a defendant fails to successfully complete a program of treatment as ordered by the court, the suspension shall remain in effect until the department is notified by the court that the defendant has successfully completed treatment and the defendant is otherwise eligible for restoration of his operating privilege. In order to implement the recordkeeping requirements of this section, the department and the court shall work together to exchange pertinent information about a defendant's case, including attendance and completion of treatment or failure to complete treatment.

§ 3817. Reporting requirements for offenses.

(a) Requirement.—The department shall make an annual report on the administration of this chapter. The department, the Administrative Office of Pennsylvania Courts and the Pennsylvania Sentencing Commission shall work together to exchange pertinent information necessary to complete this report.

(b) Contents.—The report shall include the following information by county:

(1) The number of offenders charged with a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) sorted by the subsection under which the offender was charged.

(2) The number of offenders convicted of violating section 3802 sorted by the subsection under which the offender was convicted.

(3) The number of offenders admitted to an Accelerated Rehabilitative Disposition program for violating section 3802 sorted by the subsection under which the offender was charged.

(4) The number of offenders completing an Accelerated Rehabilitative Disposition program for a violation of section 3802 sorted by the subsection under which the offender was charged.

(5) The number of persons refusing a chemical test sorted by the number of prior offenses.

(6) The number of offenders subject to treatment under section 3807 (relating to Accelerated Rehabilitative Disposition) sorted by the subsection of section 3802 under which the offender was charged.

(7) The number of offenders subject to section 3815 (relating to mandatory sentencing) sorted by the subsection of section 3802 under which the offender was convicted.

(8) The number of offenders sent to treatment for alcohol and drug problems and addiction.

(9) The names of the treatment facilities providing treatment and the level of care and length of stay in treatment.

(10) The number of offenders successfully completing treatment.

(11) The number of first, second, third and subsequent offenders sorted by the subsection of section 3802 under which the offender was charged.

(12) The number of first, second, third and subsequent offenders sorted by the subsection of section 3802 under which the offender was convicted.

(13) The number of offenders who violated section 3802 for whom costs for assessment and treatment were waived by the court.

(14) The number of offenders who violated section 3802 for whom fines and costs were waived by the court.

(c) Recipients.—The annual report shall be submitted to the Judiciary Committee, Public Health and Welfare Committee and Transportation Committee of the Senate; the Health and Human Services Committee, Judiciary Committee and Transportation Committee of the House of Representatives; and the Department of Health Bureau of Drug and Alcohol Programs, who shall utilize the data for program planning purposes. The Bureau of Drug and Alcohol Programs shall consider increases in county drug and alcohol program costs that result from the implementation of this chapter when proposing annual appropriations requests. The report shall be made available to the public.

Section 17. Sections 6308(b) and 6506(a)(7) of Title 75 are amended to read:

§ 6308. Investigation by police officers.

* * *

(b) Authority of police officer.—Whenever a police officer is engaged in a systematic program of checking vehicles or drivers or has **[articulable and reasonable grounds to suspect a violation of this title,]** *reasonable suspicion that a violation of this title is occurring or has occurred*, he may stop a vehicle, upon request or signal, for the purpose of checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title.

* * *

§ 6506. Surcharge.

(a) Levy and imposition.—In addition to any fines, fees or penalties levied or imposed as provided by law, under this title or any other statute, a surcharge shall be levied for disposition in accordance with subsection (b) as follows:

* * *

(7) Upon conviction of offenses under [section 3731] *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 upon admission to programs for Accelerated Rehabilitative Disposition for offenses enumerated in section [3731,] *1543(b)(1.1), 3802 or 3808(a)(2)*, a surcharge, respectively, of:

- (i) \$50 for the first offense.
- (ii) \$100 for the second offense.
- (iii) \$200 for the third offense.
- (iv) \$300 for the fourth and subsequent offenses.

The provisions of this subsection shall not apply to any violation committed by the operator of a motorcycle, motor-driven cycle, pedalcycle, motorized pedalcycle or recreational vehicle not intended for highway use.

* * *

Section 18. The addition of 75 Pa.C.S. §§ 3814 and 3815 shall apply as follows:

- (1) Except as set forth in paragraph (2) or (3), after June 30, 2009, for an offender sentenced under this chapter.
- (2) On and after the effective date of this section for an offender sentenced for a misdemeanor of the first degree.
- (3) After June 30, 2006, for an offender sentenced pursuant to section 3804(a)(3), (b)(2) and (c)(1).

Section 19. Notwithstanding any other provision of law to the contrary and in order to facilitate the prompt implementation of this act, initial contracts entered into by the Department of Transportation necessary to carry out any of the provisions of this act, including the procurement of any necessary computer hardware, software, licenses or related services, shall not be subject to the provisions of 62 Pa.C.S. The department shall solicit multiple bids and shall provide written justification for the selection of successful vendors. Contracts made pursuant to the provisions of this section shall not exceed two years.

Section 20. The Department of Transportation has the following duties:

- (1) In order to implement the amendment or addition of 75 Pa.C.S. §§ 1553(b)(1), (c), (d)(6), (8) and (9), (d.1), (d.2), (d.3), (e) and (f) and 3805, the following shall apply:

- (i) The department shall adopt and use guidelines, which shall be published in the Pennsylvania Bulletin. The guidelines shall not be

subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(ii) By September 30, 2004, the department shall, in accordance with law, promulgate regulations to replace the guidelines under subparagraph (i).

(iii) The guidelines under subparagraph (i) shall:

(A) take effect February 1, 2004, or immediately, whichever is later; and

(B) expire on the earlier of:

(I) the effective date of regulations under subparagraph (ii);

or

(II) September 30, 2005.

(2) By October 1, 2004, the department shall promulgate regulations to implement 75 Pa.C.S. § 1549(b).

(3) Enlist the cooperation of all individuals and entities who are authorized to physically seize a person's driver's license and report back to the General Assembly about what policies are in place to ensure that the department is notified and that the term of suspension begins upon seizure of the person's driver's license. The report shall include information about the number and nature of complaints regarding this system and efforts undertaken by the various agencies to improve this process. The report shall be issued within 180 days of the effective date of this section.

Section 21. The following shall apply:

(1) The repeal of 18 Pa.C.S. § 7513 shall not affect offenses committed prior to February 1, 2004.

(2) The repeal of 18 Pa.C.S. § 7514 and 75 Pa.C.S. § 3731 shall not affect offenses committed prior to February 1, 2004, or civil and administrative penalties imposed as a result of those offenses.

(3) An individual sentenced under 18 Pa.C.S. § 7514 or 75 Pa.C.S. § 3731 shall be subject to administrative and civil sanctions in effect on January 31, 2004.

(4) An individual sentenced under 75 Pa.C.S. Ch. 38 shall be subject to administrative and civil sanctions under this act.

(5) The following apply to offenses committed before February 1, 2004:

(i) Except as set forth in subparagraph (ii) or (iii), this act shall not affect an offense committed before February 1, 2004, or any criminal, civil and administrative penalty assessed as a result of that offense.

(ii) Subparagraph (i) does not apply if a provision added or amended by this act specifies application to an offense committed

before February 1, 2004, or to any criminal, civil or administrative penalty assessed as a result of that offense.

(iii) Subparagraph (i) does not apply to the following provisions:

(A) The amendment of 42 Pa.C.S. § 7003(5) in section 3 of this act.

(B) The amendment of 75 Pa.C.S. § 1516(c) and (d).

(C) The amendment of 75 Pa.C.S. § 1534(b).

(D) The amendment of 75 Pa.C.S. § 1547(d) in section 9.1 of this act.

(E) The amendment of 75 Pa.C.S. § 3731(a)(4)(i) and (a.1)(1)(i) in section 13 of this act.

Section 22. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) Section 19 of this act.

(ii) Section 20 of this act.

(iii) This section.

(2) The following provisions shall take effect September 30, 2003, or immediately, whichever is later:

(i) The amendment of 42 Pa.C.S. §§ 7002(b) and 7003(5) in section 3 of this act.

(ii) The amendment of 75 Pa.C.S. § 1547(d) in section 9.1¹ of this act.

(iii) The amendment of 75 Pa.C.S. § 3731(a)(4)(i) and (a.1)(1)(i) in section 13 of this act.

(3) The remainder of this act shall take effect February 1, 2004.

APPROVED—The 30th day of September, A.D. 2003.

EDWARD G. RENDELL

¹“9” in enrolled bill.