

No. 2004-237

AN ACT

HB 873

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for suspension of operating privilege and for careless driving; providing for spilled cargo, for accident scene clearance and for exemption from additional requirements for highway occupancy permits for agricultural purposes; and further providing for penalties for violation of school zone speed limits, for powers of the department and local authorities, for surcharges and for removal of vehicles and spilled cargo from roadway.

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

Section 1. Sections 1532(b), 1535(a), 3365(d) and 3714 of Title 75 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1532. Suspension of operating privilege.

* * *

(b) Suspension.—

(1) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on any offense under the following provisions:

Section 3367 (relating to racing on highways).

Section 3714(b) (relating to careless driving).

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

Section 3736 (relating to reckless driving).

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

(2) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of a subsequent offense under section 1501(a) (relating to drivers required to be licensed) if the prior offense occurred within five years of the violation date of the subsequent offense.

(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 3733 (relating to fleeing or attempting to elude police officer) or a substantially similar 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 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 3733.

(4) The department shall suspend the operating privilege of any driver for three months upon receiving a certified record of the driver's conviction of section 1371 (relating to operation following suspension of registration) or 3718 (relating to minor prohibited from operating with any alcohol in system) or an adjudication of delinquency based on section 1371.

(5) The department shall suspend the operating privilege of any driver for three months upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on section 3714(c).

* * *

§ 1535. Schedule of convictions and points.

(a) General rule.—A point system for driver education and control is hereby established which is related to other provisions for use, suspension and revocation of the operating privilege as specified under this title. Every driver licensed in this Commonwealth who is convicted of any of the following offenses shall be assessed points as of the date of violation in accordance with the following schedule:

Section Number	Offense	Points
1512	Violation of restriction on driver's license.	2
1571	Violation concerning license.	3
3102	Failure to obey policeman or authorized person.	2
3112(a)(3)(i) or (ii)	Failure to stop for a red light.	3
3114(a)(1)	Failure to stop for a flashing red light.	3
3302	Failure to yield half of roadway to oncoming vehicle.	3
3303	Improper passing.	3
3304	Other improper passing.	3
3305	Other improper passing.	3
3306(a)(1)	Other improper passing.	4
3306(a)(2)	Other improper passing.	3
3306(a)(3)	Other improper passing.	3
3307	Other improper passing.	3
3310	Following too closely.	3
3321	Failure to yield to driver on the right at intersection.	3
3322	Failure to yield to oncoming driver when making left turn.	3
3323(b)	Failure to stop for stop sign.	3
3323(c)	Failure to yield at yield sign.	3
3324	Failure to yield when entering or	

	crossing roadway between inter- sections.	3
3332	Improper turning around.	3
3341(a)	Failure to obey signal indicating approach of train.	2
3341(b)	Failure to comply with crossing gate or barrier. (and 30 days' suspension)	4
3342(b) or (e)	Failure to stop at railroad crossings.	4
3344	Failure to stop when entering from alley, driveway or building.	3
3345(a)	Failure to stop for school bus with flashing red lights. (and 60 days' suspension)	5
3361	Driving too fast for conditions	2
3362	Exceeding maximum speed.—Over Limit: 6-10 2 11-15 3 16-25 4 26-30 5 31-over 5 (and departmental hearing and sanctions provided under section 1538(d))	
3365(b)	Exceeding special speed limit in school zone. <i>(and 60 days' suspension for a second or subsequent offense)</i>	3
3365(c)	Exceeding special speed limit for trucks on downgrades.	3
3542(a)	Failure to yield to pedestrian in crosswalk.	2
3547	Failure to yield to pedestrian on sidewalk.	3
3549(a)	Failure to yield to blind pedestrian.	3
3702	Improper backing.	3
[3714] 3714(a)	Careless driving.	3
3745	Leaving scene of accident involving property damage only.	4

§ 3365. Special speed limitations.

(d) Penalty.—

(1) Any person violating any provision of this section [is guilty of] commits a summary offense and shall, upon conviction, be sentenced to pay:

(i) *Except as set forth under subparagraph (ii)*, a fine of \$35.

(ii) *For a violation of subsection (b), a fine of not more than \$500 if the person exceeds the maximum speed limit by more than 11 miles per hour.*

(2) Any person exceeding a maximum speed limit established under this section by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour in excess of the maximum speed limit.

§ 3714. Careless driving.

(a) *General rule.*—Any person who drives a vehicle in careless disregard for the safety of persons or property is guilty of careless driving, a summary offense.

(b) *Unintentional death.*—*If the person who violates this section unintentionally causes the death of another person as a result of the violation, the person shall, upon conviction, be sentenced to pay a fine of \$500.*

(c) *Serious bodily injury.*—*If the person who violates this section unintentionally causes the serious bodily injury of another person as a result of the violation, the person shall, upon conviction, be sentenced to pay a fine of \$250.*

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

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

§ 3743.1. *Spilled cargo.*

(a) *General rule.*—*Immediately following an accident, a police officer may remove or direct removal of spilled cargo from any roadway to the nearest point off the roadway where the spilled cargo will not interfere with or obstruct traffic.*

(b) *Storage of cargo.*—*When, in the opinion of a police officer, it is necessary to protect the contents, load or spilled cargo of a wrecked vehicle from the elements, spoilage or theft, the police officer may remove or direct the removal of the contents or load or spilled cargo and have the same stored, at the expense of the owner, at the nearest practical place of storage.*

(c) *Liability for damage or loss.*—*In carrying out the provisions of this section, no liability shall attach to the police officer or, absent a showing of gross negligence, to any person acting under the direction of the police officer for damage to or loss of any portion of the contents or load or spilled cargo.*

§ 3745.1. *Accident scene clearance.*

(a) General rule.—Notwithstanding any other provision of law to the contrary, the driver of any vehicle in an accident that does not result in apparent serious injury or death shall immediately remove the vehicle from the roadway to a safe refuge on the shoulder, emergency lane or median or to a place otherwise removed from the roadway whenever, in the judgment of the driver:

(1) The motor vehicle does not require towing and can be normally and safely driven under its own power in its customary manner without further damage or hazard to the motor vehicle, traffic elements or the roadway.

(2) The motor vehicle can be moved safely.

(b) Driver request.—The driver of a motor vehicle involved in a traffic accident may request any individual who possesses a valid driver's license to remove the vehicle from the roadway in order to comply with this section. Such individual is not required to comply with the request and shall not be subject to any liability, either civil or criminal, for refusing the request.

(c) Police officers.—A police officer may immediately remove or direct removal of a wrecked vehicle if the owner or operator cannot remove the wrecked vehicle or refuses or fails to have the vehicle removed as required under this section. In carrying out the provisions of this subsection, no liability shall attach to the police officer or, absent a showing of gross negligence, to any person acting under the direction of the police officer for damage to any vehicle or damage to or loss of any portion of the contents of the vehicle.

(d) No liability.—The driver or any other person who has removed a vehicle from the roadway as provided in this section before the arrival of a law enforcement officer shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle pursuant to this section.

(e) Other driver duties.—Compliance with this section shall not affect a driver's duty to comply with section 3742 (relating to accidents involving death or personal injury), 3743 (relating to accidents involving damage to attended vehicle or property), 3744 (relating to duty to give information and render aid), 3745 (relating to accidents involving damage to unattended vehicle or property), 3746 (relating to immediate notice of accident to police department) or 3747 (relating to written report of accident by driver or owner).

(f) Other police duties.—This section shall not relieve any law enforcement officer of an investigating police department, including the Pennsylvania State Police, from complying with section 3746 or 3751 (relating to reports by police).

(g) Penalty.—Any person violating this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$50.

§ 3757. Compensation for incident removal costs.

(a) General rule.—*Notwithstanding any other law or regulation, any entity incurring the cost of removing a vehicle or cargo at an accident scene if the removal is authorized by a police officer shall have the unqualified right to compensation for the cost of removal and cargo storage and cleanup from the owner of:*

- (1) A vehicle removed.**
- (2) A vehicle, the cargo of which was removed in whole or in part.**
- (3) The cargo removed.**

(b) Right to information.—*A towing company that removes a vehicle or cargo under subsection (a) shall have the unqualified right to any information relevant to vehicle ownership and information affecting compensation, including, but not limited to, insurance information.*

§ 6103.1. Exemption from additional requirements for highway occupancy permits for agricultural purposes.

The department shall waive all additional requirements for a highway occupancy permit in a fifth through eighth class county when all of the following conditions exist:

- (1) The State highway has an overall width of at least 33 feet.**
- (2) Not more than five combination vehicles per week will access the highway.**
- (3) The lack of sufficient land is not the result of a subdivision within ten years by the applicant.**
- (4) The waiver is necessary for the expansion or creation of an agricultural operation which lacks other highway access points that could be permitted without waiver.**
- (5) The applicant does not hold fee simple title to land necessary to provide access without this waiver.**
- (6) The State highway has an average daily travel of less than 6,500 vehicles per day.**
- (7) The highway access point has a sight distance of at least 500 feet.**

Section 3. Section 6109(a)(1) and (f) of Title 75, amended February 9, 2004 (P.L.65, No.8), are amended and the section is amended by adding a subsection to read:

§ 6109. Specific powers of department and local authorities.

(a) Enumeration of police powers.—*The provisions of this title shall not be deemed to prevent the department on State-designated highways and local authorities on streets or highways within their physical boundaries from the reasonable exercise of their police powers. The following are presumed to be reasonable exercises of police power:*

- (1) Except as limited by subsection [(g)] (h), regulating or prohibiting stopping, standing or parking.**

* * *

(f) Delegation of powers authorized.—Except as set forth in subsection [(g)] (h), nothing contained in this section shall be deemed to prevent local authorities by ordinance or resolution of the local governing body from delegating their powers under subsection (a)(1) or (22) to a parking authority established pursuant to 53 Pa.C.S. Ch. 55 (relating to parking authorities).

(h) Delegation of powers in cities of the second class.—

(1) Notwithstanding any contrary provision of 53 Pa.C.S. Ch. 55 or this title, beginning on January 1, 2005, the parking authority of a city of the second class shall enforce and administer all ordinances and resolutions enacted or adopted by the city of the second class pursuant to the powers specified under subsection (a)(1) and those certain stopping, standing and parking provisions provided in sections 3351 (relating to stopping, standing and parking outside of business and residence districts), 3353 (relating to prohibitions in specified places) and 3354 (relating to additional parking regulations).

(2) Beginning on March 1, 2005, the parking authority of a city of the second class shall enter into an agreement with the city of the second class for the transfer of a portion of the fines, penalties and costs collected pursuant to this subsection, which the parking authority board deems reasonable, to the city of the second class.

(3) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph:

“Administer.” To provide any services or materials necessary to enforce any ordinance or resolution enacted in order to regulate or prohibit the stopping, standing or parking of motor vehicles in a city of the second class or those certain stopping, standing and parking provisions provided in sections 3351, 3353 and 3354, including, but not limited to:

(i) The installation and maintenance of all equipment, including parking meters, on and along highways, streets and roadways.

(ii) The installation and maintenance of all signage, including signage for handicapped parking, residential permit parking and loading areas, on and along highways, streets and roadways.

(iii) The operation and management of any handicapped parking, residential parking and loading area permit programs.

(iv) The adjudication of all disputed parking violation notices or citations issued through enforcement by the parking authority in a city of the second class.

“Enforce.” The issuance of parking violation notices or citations, the immobilization, towing and impoundment of motor vehicles and the collection of fines, penalties and costs, including independent collection agency fees, for violations of any ordinance or resolution enacted in order to regulate or prohibit the stopping, standing or parking of motor vehicles in a city of the second class and those certain stopping,

standing and parking provisions provided in sections 3351, 3353 and 3354.

Section 4. Section 6506 of Title 75, amended February 9, 2004 (P.L.65, No.8), is amended to read:

§ 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:

(1) Upon conviction for any violation of the provisions of this title or other statute of the Commonwealth, or regulations promulgated under this title, which is a traffic violation and which is not included within the provisions of paragraphs (2) through (7), exclusive of parking offenses, a surcharge of \$30.

(2) Upon conviction for a violation of the following provisions of this title, a surcharge of \$40:

(i) Section 3306(a)(1) (relating to limitations on driving on left side of roadway).

(ii) Section 3745 (relating to accidents involving damage to unattended vehicle or property).

(3) Upon conviction for a violation of section 3345(a) (relating to meeting or overtaking school bus), a surcharge of \$50.

(4) Upon conviction for a violation of section 3362 (relating to maximum speed limits), the following applicable surcharge:

(i) \$30 for exceeding the maximum speed limit by 6 to 10 miles per hour or 11 to 15 miles per hour.

(ii) \$40 for exceeding the maximum speed limit by 16 to 25 miles per hour.

(iii) \$50 for exceeding the maximum speed limit by at least 26 miles per hour.

(5) Upon conviction for violation of section 4902 (relating to restrictions on use of highways and bridges), Subchapter C of Chapter 49 (relating to maximum weights of vehicles) or Subchapter E of Chapter 49 (relating to measuring and adjusting vehicle size and weight), a surcharge of \$150.

(6) Upon conviction for violation of Chapter 47 (relating to inspection of vehicles), by the owner or operator or driver of a vehicle which is subject to the provisions of Chapter 49 (relating to size, weight and load), a surcharge of \$30.

(7) Upon conviction of offenses under 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 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.

(8) Upon conviction, in a city of the first class, of any violation of this title, a surcharge of \$10.

(9) Upon conviction of any violation of this title in a city of the second class, a surcharge of \$10.

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.

(b) Disposition.—

(1) Notwithstanding the provisions of 42 Pa.C.S. §§ 3571 (relating to Commonwealth portion of fines, etc.) and 3573 (relating to municipal corporation portion of fines, etc.):

(i) All surcharges levied and collected under subsection (a)(1) through (7) by any division of the unified judicial system existing under section 1 of Article V of the Constitution of Pennsylvania and 42 Pa.C.S. § 301 (relating to unified judicial system) shall be remitted to the Commonwealth for deposit in the Catastrophic Loss Benefits Continuation Fund for the purpose of funding catastrophic loss benefits in accordance with section 1798.2 (relating to transition).

(ii) All surcharges levied and collected under subsection (a)(8) **and (9)** by such division of the unified judicial system shall be remitted to the appropriate towing and storage agent as set forth in section 6309.2(e) (relating to immobilization, towing and storage of vehicle for driving without operating privileges or registration) for purposes of funding its costs associated with Subchapter A of Chapter 63 (relating to general provisions).

(iii) If the surcharge is being paid in installments, the surcharge shall be remitted on each installment.

(2) The surcharges levied and collected under subsection [(a)] **(a)(8) and (9)** shall not be deposited for the credit or use of, or otherwise allocated, directed or paid to, counties or municipalities under the provisions of 42 Pa.C.S. Ch. 35 Subch. E (relating to fines, etc.), or any other statute, the Crime Victim's Compensation Board under section 477.15(b) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the Commission on Crime and Delinquency for victim-witness services grants under section 477.15(c) of The Administrative Code of 1929, rape crisis centers, the Emergency Medical Services Operating Fund, domestic violence shelters, the Judicial Computer System Augmentation Account established under 42 Pa.C.S.

Ch. 37 Subch. C (relating to judicial computer system) or under any other statute.

Section 5. Section 7310 of Title 75 is amended to read:

§ 7310. Removal of **[vehicles and spilled cargo]** *abandoned or presumed abandoned vehicles* from roadway.

(a) General rule.—Police officers may *immediately* remove or direct removal of **[abandoned or wrecked vehicles and spilled cargo]** *any vehicle abandoned or presumed to be abandoned* from any roadway, *including the roadway's berm or shoulder*, to the nearest point off the roadway where the vehicle **[or spilled cargo]** will not interfere with or obstruct traffic. **[Immediately following an accident, the wrecked vehicle or spilled cargo shall be removed or directed to be removed from the roadway by a police officer if the owner or operator cannot remove the wrecked vehicle or refuses or fails to have the vehicle removed within a reasonable time.**

(b) Storage of cargo.—When, in the opinion of a police officer, it is deemed necessary for the protection of the contents or load of a wrecked vehicle or spilled cargo from the elements, spoilage or theft, the police officer may remove or direct to be removed and have stored at the expense of the owner the contents or load or spilled cargo at the nearest practical place of storage.]

(c) Liability for damage or loss.—In carrying out the provisions of this section, no liability shall attach to the police officer or, absent a showing of gross negligence, to any person acting under the direction of the police officer for damage to a *presumed abandoned* vehicle or damage to or loss of any portion of the contents **[or load or spilled cargo.] of the vehicle.**

(d) Removal from Pennsylvania Turnpike System.—Notwithstanding the other provisions of this section, any vehicle on the Pennsylvania Turnpike System presumed to be abandoned as defined in section 102 (relating to definitions) shall immediately be removed by or at the direction of the Pennsylvania State Police to the contract garage providing service for that area. In all cases, the Pennsylvania State Police shall remove or direct the removal of any such vehicle within 24 hours of the time of the vehicle's presumption of abandonment.

Section 6. This act shall take effect as follows:

- (1) This section shall take effect immediately.
- (2) The amendment or addition of 75 Pa.C.S. §§ 6109(a)(1) and (f) and 6506 shall take effect in 60 days.
- (3) The remainder of this act shall take effect in 150 days.

APPROVED—The 8th day of December, A.D. 2004.

EDWARD G. RENDELL