

No. 2005-37

## AN ACT

SB 724

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, implementing the Federal Motor Carrier Safety Improvement Act of 1999.

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

Section 1. Section 102 of Title 75 of the Pennsylvania Consolidated Statutes is amended by adding a definition to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

***“Commercial driver.” A person who is either a commercial driver license holder as defined in section 1603 (relating to definitions) or who is driving a commercial motor vehicle.***

\* \* \*

Section 2. Section 1516(b) and (c) of Title 75 are amended to read:  
§ 1516. Department records.

\* \* \*

(b) Accidents and convictions.—The department shall file all accident reports and abstracts of court records of convictions received by it under the laws of this Commonwealth and maintain actual or facsimile records or make suitable notations in order that the records of each licensee showing convictions of the licensee, any departmental action initiated against the licensee regarding a reportable accident in which the licensee was involved, and the traffic accidents shall be available for official use. ***Unless the licensee was a commercial driver at the time of the violation, the department shall maintain records or make notations only for convictions that are relevant to the licensee’s operating privilege. Where the licensee was a commercial driver at the time of the violation, the department shall maintain records or make notations for all convictions of any violation, in any motor vehicle, of a State or local traffic control law, except a parking violation, and also for any other convictions that are relevant to the licensee’s operating privilege.*** Court abstracts and certifications of conviction and accident reports submitted to the department under the laws of this Commonwealth shall be considered as records of the department, and the department may store such documents in accordance with the provisions of 42 Pa.C.S. § 6109 (relating to photographic copies of business and public records) and may enter into evidence copies of such documents in

accordance with the provisions of 42 Pa.C.S. § 6103 (relating to proof of official records). Such copies shall be admissible into evidence to support the department's case in an appeal of a department action taken under Chapter 13 (relating to registration of vehicles), 15 (relating to licensing of drivers), 16 (relating to commercial drivers) or 17 (relating to financial responsibility) of this title, and the certification shall constitute prima facie proof of the facts and information contained in the court abstract or certification of conviction or accident report. These records shall also be made available to the courts for sentencing purposes.

(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[.], *except where the person was a commercial driver at the time of the violation and the charge was dismissed as part of the person's acceptance of Accelerated Rehabilitative Disposition.*

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Section 3. The definitions of "disqualification" and "serious traffic violation" in section 1603 of Title 75 are amended and the section is amended by adding definitions to read:

§ 1603. 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:

\* \* \*

*"Commercial driver's license holder" or "CDL holder." A person who has been issued a commercial driver's license or a commercial driver learner's permit.*

\* \* \*

*"Conviction." For the purposes of this chapter, a conviction includes a finding of guilty or the entering of a plea of guilty, nolo contendere or the unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court as determined by the law of the jurisdiction in which*

*the prosecution was held. A payment of the fine for the violation by any person charged with a violation of this title is a plea of guilty. The term shall include the acceptance of Accelerated Rehabilitative Disposition or other preadjudication disposition for an offense or an unvacated finding of guilt or determination of violation of the law or failure to comply with the law by an authorized administrative tribunal. The term does not include a conviction which has been overturned or for which an individual has been pardoned.*

“Disqualification.” A prohibition against driving a commercial motor vehicle or a school vehicle.

\* \* \*

“Noncommercial motor vehicle.” A motor vehicle or combination of motor vehicles not defined by the term “commercial motor vehicle” in this section.

\* \* \*

“Serious traffic violation.”

(1) Excessive speeding as defined by the United States Secretary of Transportation by regulation and published by the department as a notice in the Pennsylvania Bulletin.

(2) Reckless driving.

(3) Any offense under this title relating to motor vehicle traffic control arising in connection with an accident resulting in death to any person.

(4) Any violation of section 1606(a) (relating to requirement for commercial driver’s license), 3305 (relating to limitations on overtaking on left), 3306 (relating to limitations on driving on left side of roadway), 3307 (relating to no-passing zones), 3309 (relating to driving on roadways laned for traffic), 3310 (relating to following too closely), 3326 (relating to duty of driver in construction and maintenance areas or on highway safety corridors) or 3365(c) (relating to special speed limitations).

(5) Any other offenses defined by the United States Secretary of Transportation as serious traffic violations and published by the department as a notice in the Pennsylvania Bulletin.

\* \* \*

“Tank vehicle.” A commercial motor vehicle that is designed to transport liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks. The term shall not include portable tanks having a rated capacity under 1,000 gallons.

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Section 4. Section 1606(c) and (d) of Title 75 are amended to read:

§ 1606. Requirement for commercial driver’s license.

\* \* \*

(c) Prohibitions.—

(1) No person shall drive a commercial motor vehicle *or a school vehicle* during any period in which:

(i) his privilege to drive a commercial motor vehicle *or a school vehicle* in a state has been removed for any reason, including disqualification, until the person's commercial operating privilege has been restored;

(ii) his operating privilege is suspended, revoked, canceled or recalled until the person's operating privilege has been restored; or

(iii) he has been placed under an out-of-service order.

(2) No person who operates a commercial motor vehicle shall at any time have more than one commercial driver's license.

(d) Penalties.—

(1) Except as provided in paragraph (6), a person who violates subsection (a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500. Except that, if the person charged furnishes satisfactory proof of having held a commercial driver's license valid on the last day of the preceding driver's license period and no more than 60 days have elapsed from the last date of renewal, the fine shall be \$100. Except as provided in paragraph (6), every person convicted of a second or subsequent violation of subsection (a) shall be sentenced to pay a fine of not less than \$500 nor more than \$1,500.

(2) A person who drives a commercial motor vehicle *or a school vehicle* while subject to disqualification commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500. Every person convicted of a second or subsequent violation of driving a commercial motor vehicle while subject to disqualification shall be sentenced to pay a fine of not less than \$500 nor more than \$1,500.

(3) A person who drives a commercial motor vehicle *or a school vehicle* while subject to disqualification under section 1611(b) or (e) (relating to disqualification) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000 or to imprisonment for six months, or both.

(4) A person who drives a commercial motor vehicle *or a school vehicle* in violation of an out-of-service order issued under section 1612 (relating to commercial drivers prohibited from operating with any alcohol in system) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of [~~\$1,000.~~] *not less than \$1,100 nor more than \$2,750.*

(5) A person who drives a commercial motor vehicle *or a school vehicle* in violation of an out-of-service order (other than an out-of-service order issued under section 1612) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of [~~\$500~~] *\$1,100.*

(6) No person shall be convicted of violating subsection (a) if the person produces at the office of the issuing authority within 15 days of the violation:

(i) a commercial driver's license valid in this Commonwealth at the time of the violation; or

(ii) if the commercial driver's license is lost, stolen, destroyed or illegible, evidence that the driver was licensed at the time of the violation and that application for a duplicate license had been made at the time of the violation.

(7) A person who drives a commercial motor vehicle in violation of subsection (c)(1)(ii) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000.

(8) A person who drives a commercial motor vehicle in violation of subsection (c)(2) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000.

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Section 5. Section 1607(c) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 1607. Commercial driver's license qualification standards.

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(c) Limitations on issuance of license.—

*(1) Applicants for a commercial driver's license shall provide the department with the names of all states where the applicant has been previously or is currently licensed to operate any type of motor vehicle.*

*(2) The department shall request the complete driving record from all states where the applicant was licensed within the previous ten years to operate any type of motor vehicle. Suitable notations of all convictions, disqualifications and other licensing actions for violations of any State or local law relating to motor vehicle traffic control, other than a parking violation, committed in any type of vehicle may be stored and admitted into evidence by the department as provided in section 1516(b) (relating to department records). All actions reported to the department under this paragraph shall have the same effect on subsequent actions as if the reported action had been taken by the department.*

*(3) A commercial driver's license or commercial driver learner's permit shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle or while the person's driver's license is suspended, revoked or canceled in any state; nor shall a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which shall be returned to the issuing state for cancellation. [This subsection shall not be applicable to persons issued occupational limited licenses.]*

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*(e) Federal disqualifications.—Upon receipt of a notification from the Federal Motor Carrier Safety Administration that a person is subject to a*

*disqualification imposed by Federal law, the department shall record the disqualification in the person's driving record.*

Section 6. Section 1611 of Title 75 is amended to read:

§ 1611. Disqualification.

(a) Disqualification for first violation of certain offenses.—Upon receipt of a **[certified copy] report** 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 3802 (relating to driving under 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;] person was a commercial driver at the time the violation occurred;**

(2) section 3742 (relating to accidents involving death or personal injury), where the **[violation occurred while the person was driving a commercial motor vehicle;] person was a commercial driver at the time the violation occurred;**

(3) section 3743 (relating to accidents involving damage to attended vehicle or property), where the **[violation occurred while the person was driving a commercial motor vehicle;] person was a commercial driver at the time the violation occurred;**

(4) section 3745 (relating to accidents involving damage to unattended vehicle or property), where the **[violation occurred while the person was driving a commercial motor vehicle;] person was a commercial driver at the time the violation occurred;**

(5) any felony in the commission of which a court determines a **[commercial] motor vehicle** was essentially involved *and where the person was a commercial driver at the time the violation occurred*, except as described in subsection (e); **[or]**

(6) section 1606(c) (relating to requirement for commercial driver's license), while their driving privilege is suspended, revoked, canceled or recalled or while subject to disqualification or in violation of an out-of-service order~~[.]~~; *or*

(7) *any offense wherein the person caused the death of a person as a result of a motor vehicle accident through the negligent operation of a commercial motor vehicle, including, but not limited to, a violation of 18 Pa.C.S. § 2504 (relating to involuntary manslaughter) or a violation of section 3732 (relating to homicide by vehicle).*

(b) Disqualification for offense while carrying hazardous materials.—The department shall disqualify any person from driving a commercial motor vehicle for three years if any of the *first* offenses in subsection (a) *or first refusal in section 1613 (relating to implied consent requirements for commercial motor vehicle drivers)* occurred while transporting a hazardous material required to be placarded.

(c) Disqualification for two violations of certain offenses.—The department shall disqualify for life any person convicted of two or more violations of any of the offenses specified in subsection (a), *or the subject of two or more reports of test refusal as specified in section 1613*, or any combination of those offenses *and/or refusals*, arising from two or more separate and distinct incidents. Only offenses committed after the effective date of this chapter may be considered in applying this subsection.

(d) Mitigation of disqualification for life.—The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than ten years, if such reductions are permitted by Federal regulations.

(e) Disqualification for controlled substance offenses.—The department shall disqualify any person from driving a commercial motor vehicle for life who is convicted of using a **[commercial]** motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance~~.~~ *where either:*

*(1) the person was a commercial driver's license holder at the time of the commission of the felony; or*

*(2) the motor vehicle used in the commission of the felony was a commercial motor vehicle.*

There shall be no exceptions or reductions to this disqualification for life.

(f) Disqualification for failure to have CDL.—**[The]** *In addition to any other disqualification required by this section, the* department shall disqualify any person from driving a commercial motor vehicle for six months upon receiving a **[certified record]** *report* of the person's conviction of violating section 1606(a)~~], except as provided in section 1606(d)(6)~~.

(g) Disqualification for serious traffic offenses.—The department shall disqualify any person from driving a commercial motor vehicle for a period of 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, **[committed in a commercial motor vehicle]** arising from separate and distinct incidents occurring within a three-year period. *A violation will only be considered a serious traffic violation for purposes of this subsection where:*

*(1) the person was a commercial driver's license holder at the time of the violation, and conviction of the violation results in a revocation, cancellation or suspension of the person's operating privileges for noncommercial motor vehicles; or*

*(2) the person was operating a commercial motor vehicle at the time of the violation.*

(h) Conviction in Federal court or another state.—For purposes of the provisions of this section, a copy of a **[certified record]** *report* of conviction or a copy of a **[certified record]** *report* of administrative adjudication from a Federal court or another state for an offense **[essentially]** similar to those

offenses which would result in disqualification in this section shall be treated by the department as if the conviction had occurred in this Commonwealth. *A conviction for negligent homicide shall be treated as similar to either a conviction for violating 18 Pa.C.S. § 2504 or a conviction for violating section 3732 for purposes of the provisions of this section.*

(i) Surrender of license.—Upon the disqualification of the commercial driving privilege or school vehicle driving privilege of a person, the license shall be surrendered as provided in section 1540 (relating to surrender of license). *If the person is not a CDL holder, then the person shall submit an acknowledgment of disqualification to the department in lieu of the license.*

(j) Updating driving record.—After *disqualifying*, suspending, revoking, recalling or canceling a commercial [driver's license] *driving privilege*, the department shall update its records to reflect that action. After *disqualifying*, suspending, revoking, recalling or canceling a commercial driving privilege issued by another state, the department shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license. *In addition to any other records required or authorized to be kept by the department, the department shall file or make suitable notation in its records thereof all reports of the conviction of any violation, in any motor vehicle, of a State or local traffic control law, except a parking violation, and also for any other report of conviction or report of test refusal that results in disqualification pursuant to this chapter, of a person who was a commercial driver at the time of the violation that are received by the department from any court or administrative body of the Commonwealth, another state or the Federal Government. Such reports or suitable notations may be stored and admitted into evidence by the department as provided in section 1516(b) (relating to department records). Notwithstanding any other provision of law, no record maintained by the department in accordance with the provisions of this subsection may be expunged by order of court.*

(k) *Disqualification for railroad crossing offenses.—The department shall disqualify any person from driving a commercial motor vehicle upon receiving a report of the person's conviction for an offense under section 3341 (relating to obedience to signal indicating approach of train), 3342 (relating to vehicles required to stop at railroad crossings) or 3343(a), (c) or (d) (relating to moving heavy equipment at railroad grade crossings) committed in a commercial vehicle as follows:*

(1) *60 days for a first conviction.*

(2) *120 days for a second conviction arising from separate and distinct incidents occurring within a three-year period.*

(3) *One year for a third conviction arising from separate and distinct incidents occurring within a three-year period.*

(l) *Disqualification for incomplete or fraudulent application.—The department shall disqualify any person from driving a commercial motor*



*vehicle for 60 days upon canceling the person's commercial driver's license pursuant to section 1572(a)(1)(ii) (relating to cancellation of driver's license) involving an application related to the requirements of this chapter.*

*(m) Limitation on noncommercial motor vehicle-based disqualifications.—A violation which occurred prior to the effective date of this subsection and which did not involve a commercial motor vehicle shall not be considered by the department for purposes of applying a disqualification pursuant to this section.*

Section 7. Section 1613(e) and (f) of Title 75 are amended and the section is amended by adding subsections to read:

§ 1613. Implied consent requirements for commercial motor vehicle drivers.

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**[(e) Disqualification for refusal.—Upon receipt of the sworn report of a police officer submitted under subsection (d), the department shall disqualify the driver from driving a commercial motor vehicle for a period of one year.**

**(f) Appeal of disqualification.—Any holder of a commercial driver's license who is disqualified under the provisions of this section from driving a commercial motor vehicle shall have the same right of appeal as provided for in cases of suspension.]**

*(d.1) Disqualification for refusal.—Upon receipt of a report of test refusal, the department shall disqualify the person who is the subject of the report for the same period as if the department had received a report of the person's conviction for violating one of the offenses listed in section 1611(a) (relating to disqualification). A person who is disqualified as a result of a report of test refusal that originated in this Commonwealth shall have the same right of appeal as provided for in cases of suspension. Where the report of test refusal originated from another state or other foreign jurisdiction, the review of a court on an appeal from a disqualification under this subsection shall be limited to whether the department has received a report of refusal and whether the person has successfully established one of the following defenses:*

*(1) The person being disqualified is not the one identified in the report.*

*(2) The person has successfully contested the report in the jurisdiction from which it originated.*

*(3) The department has erred in determining the length of the disqualification to be imposed as a result of the report of test refusal.*

*(d.2) Limitation on noncommercial motor vehicle-based refusal.—A report of test refusal which occurred prior to the effective date of this subsection and which did not involve a commercial motor vehicle shall not be considered by the department for purposes of applying a disqualification pursuant to this section.*

**(d.3) Definition.**—*As used in this section, the term “report of test refusal” shall mean the following:*

**(1)** *A report of a police officer submitted to the department that a person refused to submit to testing requested under this section.*

**(2)** *A notice by a police officer to the department of a person’s refusal to take a test requested pursuant to section 1547 (relating to chemical testing to determine amount of alcohol or controlled substance) where the person was a commercial driver at the time relevant to the refusal.*

**(3)** *Any document, including an electronic transmission, submitted to the department from a court of competent jurisdiction indicating that a person was convicted of an offense that involves the refusal to submit to testing for alcohol or controlled substances where the person was a commercial driver at the time of the violation.*

**(4)** *Any document, including an electronic transmission, submitted to the department from a court, administrative tribunal, administrative agency or police officer or other agent of another state or other foreign jurisdiction indicating that a person refused to take a test requested to aid enforcement of a law against driving while under the influence of alcohol or a controlled substance where the person was a commercial driver at the time relevant to the refusal.*

Section 8. Sections 1614, 3342, 4107(d)(3) and 6322(b) of Title 75 are amended to read:

§ 1614. Notification of traffic convictions.

After receiving a report of the conviction of any holder of a commercial driver’s license issued by another state, *or any person who is a holder of a driver’s license issued by another state and who was operating a commercial motor vehicle at the time of the violation*, for violation of this chapter or Chapter 15 (relating to licensing of drivers), 17 (relating to financial responsibility), 31 (relating to general provisions), 33 (relating to rules of the road in general) or 37 (relating to miscellaneous provisions) committed in a commercial motor vehicle, the department shall notify the driver licensing authority in the licensing state of the conviction.

§ 3342. Vehicles required to stop at railroad crossings.

**(a) General rule.**—Except as provided in subsection (c), the driver of any vehicle described in subsection (b), before crossing at grade any track or tracks of a railroad, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad crossing and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train. When it is safe to do so, the driver of the vehicle shall drive the vehicle across the tracks only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing the crossing. The driver shall not manually shift gears while crossing the track or tracks.

(b) Vehicles subject to stopping requirement.—[This section] **Subsection (a)** shall apply to the following vehicles:

(1) Any vehicle designated by the department in accordance with the provisions of subsection (d).

(2) A school bus, whether or not carrying passengers.

(3) Every truck and tractor combination which carries gasoline, diesel fuel, fuel oil, explosives or radioactive materials.

(4) *Every bus transporting passengers.*

(5) *Any vehicle specified in 49 CFR 392.10(a) (relating to railroad grade crossings; stopping required) or any current amendment or modification to that section published by the United States Department of Transportation.*

(c) Exceptions.—[This section] **Subsection (a)** does not apply at any of the following:

(1) Any railroad grade crossing at which traffic is controlled by a police officer or flagman, *who indicates that the vehicle is not required to stop.*

(2) Any railroad grade crossing at which traffic is regulated by a functioning highway traffic-control signal transmitting a green indication for the direction of travel of the vehicle.

(3) Any railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

(4) Any abandoned railroad grade crossing which is marked by the former rail operator with a sign prescribed by the department indicating that the rail line is abandoned.

(5) An industrial or spur line railroad grade crossing marked with a sign reading "exempt." Such a sign shall be erected only by or with the consent of the Pennsylvania Public Utility Commission.

(d) Notice of vehicles subject to section.—The department shall publish in the Pennsylvania Bulletin a notice describing the vehicles which must comply with the stopping requirements of [this section] **subsection (a)**. In developing the list of vehicles, the department shall give consideration to the hazardous nature of any substance carried by the vehicle as determined by the department and to the number of passengers carried by the vehicle in determining whether the vehicle shall be required to stop. This list of vehicles shall correlate with and so far as possible conform to the regulations of the United States Department of Transportation as amended from time to time.

(e) Use of vehicle hazard lights.—The driver of any vehicle mentioned in subsection (b)(2) and (3) shall activate the vehicle hazard lights when stopping at the railroad crossing.

(f) Penalty.—A violation of this section constitutes a summary offense punishable by a fine of from \$100 to \$150, except that a violation of subsection (b) or (e) shall be punishable by a fine of from \$200 to \$500.

*(g) Requirement upon approaching tracks.—Every commercial motor vehicle as defined by section 1603 (relating to definitions) other than those listed in subsection (b) shall, upon approaching any track or tracks of a railroad, be driven at a rate of speed which will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the railroad crossing and shall not be driven upon or over such crossing until the course is clear.*

§ 4107. Unlawful activities.

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(d) Penalty.—

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(3) Any person who violates subsection (b.1) as it relates to driver's hours of service commits a summary offense and shall, upon conviction, be sentenced to pay a fine of [~~\$500~~] \$2,750 per violation.

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§ 6322. Reports by issuing authorities.

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*(b) Use of reports by department.—[The] Other than reports of parking convictions, the department shall promptly enter [the] all relevant information contained in the reports in the records of the persons [involved in order to effect swift execution of the provisions of Subchapter B of Chapter 15 (relating to a comprehensive system for driver education and control).] who were not commercial drivers at the time of the violation and shall promptly enter all information contained in the reports in the records of person who were commercial drivers at the time of the violation.*

Section 9. The Department of Transportation shall publish a notice in the Pennsylvania Bulletin when it determines that it is prepared to implement the administrative changes required by this act.

Section 10. This act shall take effect as follows:

(1) Section 9 of this act shall take effect immediately.

(2) The remainder of this act shall take effect 90 days after publication of a notice in the Pennsylvania Bulletin.

APPROVED—The 5th day of July, A.D. 2005.

EDWARD G. RENDELL