
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 773 Session of
2021

INTRODUCED BY MENSCH, ARGALL, BAKER, BARTOLOTTA, LANGERHOLC,
MARTIN, MASTRIANO, PHILLIPS-HILL, PITTMAN, STEFANO,
TOMLINSON, VOGEL, YAW, BLAKE, COLLETT, COMMITTA, KANE, KEARNEY
AND SANTARSIERO, MARCH 3, 2021

REFERRED TO TRANSPORTATION, MARCH 3, 2021

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 the offense of driving while operating privilege is suspended
5 or revoked and for ignition interlock limited license; and,
6 in driving after imbibing alcohol or utilizing drugs, further
7 providing for grading, for penalties, for ignition interlock,
8 for prior offenses, for Accelerated Rehabilitative
9 Disposition, for drug and alcohol assessments and for
10 mandatory sentencing and providing for substance monitoring
11 program.

12 This act may be referred to as Deana's Law.

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

15 Section 1. Section 102 of Title 75 of the Pennsylvania
16 Consolidated Statutes is amended by adding definitions to read:

17 § 102. Definitions.

18 Subject to additional definitions contained in subsequent
19 provisions of this title which are applicable to specific
20 provisions of this title, the following words and phrases when
21 used in this title shall have, unless the context clearly

1 indicates otherwise, the meanings given to them in this section:

2 * * *

3 "Continuous alcohol monitoring device." A monitoring device
4 or instrument that:

5 (1) is attached to an individual;

6 (2) is designed to automatically and frequently test the
7 presence of alcohol in the individual regardless of the
8 method by which the device or instrument is attached to the
9 individual;

10 (3) detects the presence of alcohol; and

11 (4) detects an attempt to tamper with, obstruct or
12 remove the device or instrument.

13 * * *

14 "Remote breath testing device." An unsupervised mobile
15 breath testing device that:

16 (1) is not affixed to a motor vehicle;

17 (2) has the ability to confirm the identity and location
18 of an individual; and

19 (3) detects the presence of alcohol.

20 * * *

21 "Substance monitoring program." The court-ordered use of or
22 participation in any one or both of the following as a condition
23 of bail, probation or parole consistent with section 3818
24 (relating to substance monitoring program):

25 (1) A continuous alcohol monitoring device, remote
26 breath testing device or any other alcohol monitoring
27 technology or device, as determined by the court.

28 (2) Random drug testing or any other controlled
29 substance monitoring technology or device, as determined by
30 the court.

1 * * *

2 Section 2. Sections 1543(b)(1.1)(i), 1556(b)(1) and (2) and
3 3803(b)(3) and (4.1) of Title 75 are amended to read:

4 § 1543. Driving while operating privilege is suspended or
5 revoked.

6 * * *

7 (b) Certain offenses.--

8 * * *

9 (1.1) (i) A person who has an amount of alcohol by
10 weight in his blood that is equal to or greater than .02%
11 at the time of testing or who at the time of testing has
12 in his blood any amount of a Schedule I or nonprescribed
13 Schedule II or III controlled substance, as defined in
14 the act of April 14, 1972 (P.L.233, No.64), known as The
15 Controlled Substance, Drug, Device and Cosmetic Act, or
16 its metabolite or [who refuses testing of blood or
17 breath] who refuses testing of breath under section 1547
18 (relating to chemical testing to determine amount of
19 alcohol or controlled substance) or chemical testing of
20 blood pursuant to a valid search warrant, court order or
21 any other basis permissible by the Constitution of the
22 United States and the Constitution of Pennsylvania, and
23 who drives a motor vehicle on any highway or trafficway
24 of this Commonwealth at a time when the person's
25 operating privilege is suspended or revoked as a
26 condition of acceptance of Accelerated Rehabilitative
27 Disposition for a violation of section 3802 or former
28 section 3731 or because of a violation of section 1547(b)
29 (1) or 3802 or former section 3731 or is suspended under
30 section 1581 for an offense substantially similar to a

1 violation of section 3802 or former section 3731 shall,
2 upon a first conviction, be guilty of a summary offense
3 and shall be sentenced to pay a fine of \$1,000 and to
4 undergo imprisonment for a period of not less than 90
5 days.

6 * * *

7 § 1556. Ignition interlock limited license.

8 * * *

9 (b) Petition.--

10 (1) An applicant for an ignition interlock limited
11 license shall file a petition with the department, by
12 certified mail, on a form prescribed by the department[, and
13 shall include proof that an approved ignition interlock
14 system, as defined in section 3801, has been installed in one
15 or more motor vehicles that the applicant seeks permission to
16 operate]. The petition shall include proof of financial
17 responsibility covering each vehicle the applicant requests
18 to be permitted to operate. Upon approval of the petition,
19 the ignition interlock system shall be installed in any motor
20 vehicle to be operated by the applicant, and proof of
21 installation shall be provided by the ignition interlock
22 device vendor.

23 (2) [The petition shall also include proof of financial
24 responsibility covering each vehicle the applicant requests
25 to be permitted to operate.] The department shall promulgate
26 regulations to require additional information as well as
27 additional evidence to verify the information contained in
28 the petition.

29 * * *

30 § 3803. Grading.

1 * * *

2 (b) Other offenses.--

3 * * *

4 (3) An individual who violates section 3802(a)(1) where
5 there was an accident resulting in bodily injury, serious
6 bodily injury or death of any person or in damage to a
7 vehicle or other property, or who violates section 3802(b),
8 (e) or (f) and who has two prior offenses commits a
9 [misdemeanor of the first] felony of the third degree.

10 * * *

11 (4.1) An individual who violates section 3802(a)(1)
12 where the individual refused testing of breath or chemical
13 testing pursuant to a valid search warrant, court order or
14 any other basis permissible by the Constitution of the United
15 States and the Constitution of Pennsylvania, or who violates
16 section 3802(c) or (d) and who commits:

17 (i) A felony of the third degree if the individual
18 has two [or more] prior offenses [commits a felony of the
19 third degree].

20 (ii) A felony of the second degree if the individual
21 has three or more prior offenses.

22 * * *

23 Section 3. Section 3804(e)(2) of Title 75 is amended and the
24 section is amended by adding subsections to read:

25 § 3804. Penalties.

26 * * *

27 (c.2) Consecutive sentence.--A sentence imposed upon an
28 individual under this section who has three or more prior
29 offenses shall be served consecutively to any other sentence the
30 individual is serving and to any other sentence being then

1 imposed by the court, except for those with which the offense
2 must merge as a matter of law.

3 (c.3) Sentencing enhancement.--The Pennsylvania Commission
4 on Sentencing, under 42 Pa.C.S. § 2154 (relating to adoption of
5 guidelines for sentencing), shall provide for a sentencing
6 enhancement for a violation of section 3802(a)(1) where the
7 individual refused testing of breath or chemical testing
8 pursuant to a valid search warrant, court order or any other
9 basis permissible by the Constitution of the United States and
10 the Constitution of Pennsylvania or for a violation of section
11 3802(c) or (d) and where the individual has four or more prior
12 offenses.

13 * * *

14 (e) Suspension of operating privileges upon conviction.--

15 * * *

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

18 * * *

19 (ii) 18 months for a misdemeanor of the first degree
20 or felony [of the third degree] under this chapter.

21 * * *

22 Section 4. Section 3805(c) and (h.2) of Title 75 are amended
23 and the section is amended by adding subsections to read:

24 § 3805. Ignition interlock.

25 * * *

26 (c) Issuance of unrestricted license.--[One year from the
27 date of issuance of an ignition interlock restricted license
28 under this section, if] If otherwise eligible, a person may be
29 issued a replacement license under section 1951(d) that does not
30 contain the ignition interlock system restriction. The

1 department shall not issue an unrestricted license until a
2 person has presented all of the following:

3 (1) Proof that the person has completed the ignition
4 interlock restricted license period under [this section]
5 subsection (c.1).

6 (2) Certification by the vendor that provided the
7 ignition interlock device that the person has complied with
8 subsection (h.2).

9 (c.1) Restricted license period.--An individual may be
10 issued an unrestricted license under subsection (c) after a
11 period of time as follows:

12 (1) Except as provided under paragraph (2), one year
13 from the date of issuance of the ignition interlock
14 restricted license.

15 (2) Two years from the date of issuance of the ignition
16 interlock restricted license in the case of an individual
17 convicted of an offense under section 3802 who has two or
18 more prior offenses.

19 * * *

20 (h.2) Declaration of compliance.--Restrictions imposed under
21 section 1556 [(relating to ignition interlock limited license)]
22 shall remain in effect until the department receives a
23 declaration from the person's ignition interlock device vendor,
24 in a form provided or approved by the department, certifying
25 that the following incidents have not occurred in the two
26 consecutive months prior to the date entered on the certificate,
27 and for the purposes of a suspension imposed under section
28 3807(d) (2), the person's ignition interlock device vendor shall
29 certify the following incidents have not occurred in the prior
30 30 days entered on the certificate:

1 (1) An attempt to start the vehicle with a breath
2 alcohol concentration of 0.08% or more, not followed within
3 10 minutes by a subsequent attempt with a breath alcohol
4 concentration lower than 0.08%.

5 (2) Failure to take or pass any required retest.

6 (3) Failure of the person to appear at the ignition
7 interlock system vendor when required for maintenance,
8 repair, calibration, monitoring, inspection or replacement of
9 the device such that the ignition interlock system no longer
10 functions as required under subsection (h).

11 (h.3) Notice to department.--If a violation under subsection
12 (h.2) (1), (2) or (3) occurs in the two consecutive months prior
13 to the date entered on the certificate, the vendor shall notify
14 the department as to the violation on a form designated by the
15 department, and the department shall notify the person of the
16 violation and that ignition interlock device usage shall
17 continue until no violations have occurred within a 60-day
18 period.

19 * * *

20 Section 5. Section 3806(b) (1) of Title 75 is amended to
21 read:

22 § 3806. Prior offenses.

23 * * *

24 (b) Timing.--

25 (1) For purposes of sections 1553(d.2) (relating to
26 occupational limited license), 1556 (relating to ignition
27 interlock limited license), 3803 (relating to grading), 3804
28 (relating to penalties) [and], 3805 (relating to ignition
29 interlock), 3815 (relating to mandatory sentencing) and 3818
30 (relating to substance monitoring program), the prior offense

1 must have occurred:

2 (i) within 10 years prior to the date of the offense
3 for which the defendant is being sentenced; or

4 (ii) on or after the date of the offense for which
5 the defendant is being sentenced.

6 * * *

7 Section 6. Section 3807(b)(4) of Title 75 is amended and
8 subsection (a) is amended by adding a paragraph to read:

9 § 3807. Accelerated Rehabilitative Disposition.

10 (a) Eligibility.--

11 * * *

12 (2.1) Notwithstanding the procedures for Accelerated
13 Rehabilitative Disposition for other crimes, the attorney for
14 the Commonwealth shall not submit a charge brought under this
15 chapter for Accelerated Rehabilitative Disposition unless
16 all of the following apply:

17 (i) The defendant admits that the Commonwealth's
18 evidence would prove the elements beyond a reasonable
19 doubt under section 3802.

20 (ii) The defendant agrees that the defendant's
21 admission may be used as a prior conviction for the
22 purpose of increasing the grading and penalty of any
23 subsequent offense under this title.

24 (iii) The defendant knowingly and voluntarily waives
25 the defendant's right to challenge the use of the
26 Accelerated Rehabilitative Disposition as a prior
27 conviction for the purpose of enhancing the grading and
28 sentencing of any subsequent offense under this title.

29 (b) Evaluation and treatment.--

30 * * *

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

4 (i) Length of stay.

5 (ii) Levels of care.

6 (iii) Follow-up care and monitoring.

7 (iv) The use of medication-assisted treatment in
8 conjunction with behavioral therapies if the treatment is
9 clinically appropriate.

10 * * *

11 Section 7. Section 3814(4) of Title 75 is amended to read:

12 § 3814. Drug and alcohol assessments.

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

17 * * *

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

21 (i) Length of stay.

22 (ii) Levels of care.

23 (iii) Follow-up care and monitoring.

24 (iv) The use of medication-assisted treatment in
25 conjunction with behavioral therapies if the treatment is
26 clinically appropriate.

27 Section 8. Section 3815(b)(2) of Title 75 is amended and the
28 section is amended by adding a subsection to read:

29 § 3815. Mandatory sentencing.

30 * * *

1 (b) Parole.--

2 * * *

3 (2) The following shall be conditions of parole:

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

8 (A) the use of illegal controlled substances;

9 and

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

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

16 (A) Refrain from:

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

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

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

23 (iii) In addition to any other condition or
24 restriction imposed, an individual who violates section
25 3802 and who has one or more prior offenses may be
26 ordered by the court to participate in a substance
27 monitoring program under section 3818.

28 (b.1) Probation.--In addition to any other condition or
29 restriction imposed, an individual who violates section 3802 and
30 who has one or more prior offenses shall be ordered by the court

1 to participate in a substance monitoring program as a condition
2 of probation under section 3818.

3 * * *

4 Section 9. Title 75 is amended by adding a section to read:
5 § 3818. Substance monitoring program.

6 (a) Evaluation required.--The following shall apply:

7 (1) In all of the following circumstances, in addition
8 to any other condition or restriction imposed, an individual
9 shall be evaluated by a court to determine whether, at the
10 court's discretion, the individual may be ordered to
11 participate in a substance monitoring program:

12 (i) While adjudication of a violation of section
13 3802 (relating to driving under influence of alcohol or
14 controlled substance) is pending for an individual who
15 has one or more prior offenses.

16 (ii) While adjudication of two or more violations of
17 section 3802 are concurrently pending for an individual.

18 (iii) As a condition of probation or parole where
19 the individual violates section 3802 and has one or more
20 prior offenses.

21 (2) The court may use the assessment from section 3814
22 (relating to drug and alcohol assessments) to satisfy this
23 requirement under paragraph (1).

24 (b) Monitoring devices and technologies.--

25 (1) A substance monitoring program shall include a
26 requirement that the individual use or participate in one or
27 both of the following, as determined by the court:

28 (i) A continuous alcohol monitoring device, remote
29 breath testing device or any other similar alcohol
30 monitoring technology or device, other than an ignition

1 interlock system, as determined by the court.

2 (ii) Random drug testing or any other controlled
3 substance monitoring technology or device as determined
4 by the court.

5 (2) When determining the devices or technologies to be
6 used under paragraph (1), the court shall consider the
7 following:

8 (i) the individual's prior offenses;

9 (ii) the individual's most recent violation of
10 section 3802;

11 (iii) any pending adjudication for a violation of
12 section 3802;

13 (iv) in consultation with the county, the monitoring
14 devices and technologies available to or utilized by the
15 county; and

16 (v) any other factor deemed appropriate by the
17 court.

18 (c) Determination and costs to be paid.--If the court orders
19 an individual to participate in a substance monitoring program,
20 the individual shall pay for costs associated with the
21 individual's participation in the substance monitoring program,
22 including costs associated with any required device or
23 technology.

24 (d) Prohibitions.--An individual ordered to participate in a
25 substance monitoring program is prohibited from all of the
26 following for the duration of the substance monitoring program:

27 (1) Imbibing alcohol, using controlled substances, or
28 both, as determined by the court.

29 (2) Tampering with any device or technology associated
30 with the substance monitoring program.

1 (3) Failing to comply with any other requirement ordered
2 by the court as part of the substance monitoring program.

3 (e) Construction.--Nothing in this section shall be
4 construed to prohibit a court from:

5 (1) Ordering an individual pending adjudication for a
6 single violation of section 3802 with no prior offenses to
7 participate in a substance monitoring program as a condition
8 of bail.

9 (2) Ordering an individual convicted of a violation of
10 section 3802 who has no prior offenses to participate in a
11 substance monitoring program as a condition of probation or
12 parole.

13 Section 10. This act shall take effect as follows:

14 (1) The following provisions shall take effect
15 immediately:

16 (i) The amendment of 75 Pa.C.S. § 1543(b)(1.1)(i).

17 (ii) The addition of 75 Pa.C.S. § 3807(a)(2.1).

18 (iii) This section.

19 (2) The amendment or addition of 75 Pa.C.S. § 3805(c)
20 and (c.1) shall take effect in 90 days.

21 (3) The following provisions shall take effect in eight
22 months:

23 (i) The amendment of 75 Pa.C.S. § 1556(b)(1) and
24 (2).

25 (ii) The addition of 75 Pa.C.S. § 3805(h.3).

26 (4) The remainder of this act shall take effect in 120
27 days.