

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1036 Session of 2013

INTRODUCED BY RAFFERTY, VULAKOVICH, TEPLITZ, ERICKSON, MENSCH, WAUGH, SOLOBAY, BLAKE AND DINNIMAN, JUNE 20, 2013

SENATOR RAFFERTY, TRANSPORTATION, RE-REPORTED AS AMENDED, JUNE 11, 2014

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 occupational limited license and providing for ignition
5 interlock limited license; and, in driving after imbibing
6 alcohol or utilizing drugs, defining "ignition interlock <--
7 limited license," further providing for ignition interlock
8 and for the offense of illegally operating a motor vehicle
9 not equipped with ignition interlock.

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

12 ~~Section 1. Section 1553(a)(1), (d)(6), (7) and (8), (d.1) <--
13 and (d.2) of Title 75 of the Pennsylvania Consolidated Statutes
14 are amended to read:~~

15 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--
16 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION 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 "IGNITION INTERLOCK LIMITED LICENSE." A DRIVER'S LICENSE
4 ISSUED TO AN INDIVIDUAL WHOSE OPERATING PRIVILEGE IS SUSPENDED
5 OR REVOKED FOR ONE OR MORE VIOLATIONS OF SECTION 3802 (RELATING
6 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)
7 OR 1547 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF
8 ALCOHOL OR CONTROLLED SUBSTANCE) REQUIRING THE INDIVIDUAL TO
9 OPERATE ONLY MOTOR VEHICLES EQUIPPED WITH A FUNCTIONING IGNITION
10 INTERLOCK SYSTEM.

11 * * *

12 SECTION 1.1. SECTION 1553(A) (1), (D) (6), (7) AND (8), (D.1)
13 AND (D.2) OF TITLE 75 ARE AMENDED TO READ:

14 § 1553. Occupational limited license.

15 (a) Issuance.--

16 (1) The department shall issue an occupational limited
17 license under the provisions of this section to a driver
18 whose operating privileges have been suspended for a
19 violation of this title, except for an offense under section
20 3802 (relating to driving under influence of alcohol or
21 controlled substance) or under former section 3731 (relating
22 to driving under influence of alcohol or controlled
23 substance) or for a refusal to submit to chemical testing
24 under section 1547 (relating to chemical testing to determine
25 amount of alcohol or controlled substance), and is not
26 prohibited under any other provision in this section. If the
27 underlying reason for the suspension was caused by violations
28 committed while the driver was operating a commercial motor
29 vehicle, the driver shall not be issued an occupational
30 limited license for the purpose of operating a commercial

1 motor vehicle. The department shall prohibit the issuance of
2 an occupational limited license when disqualified from doing
3 so under the Commercial Motor Vehicle Safety Act of 1986
4 (Title XII of Public Law 99-570, 49 U.S.C. App. § 2701 et
5 seq.) or the Motor Carrier Safety Improvement Act of 1999
6 (Public Law 106-159, 113 Stat. 1748).

7 * * *

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

10 * * *

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

16 (7) Any person whose operating privilege has been
17 suspended for refusal to submit to chemical testing to
18 determine the amount of alcohol or controlled substance
19 unless that suspension has been fully served.

20 (8) Except as set forth in subsections (d.1) and (d.2),
21 any person who has been convicted of driving under the
22 influence of alcohol or controlled substance and whose
23 license has been suspended by the department unless the
24 suspension imposed has been fully served.]

25 * * *

26 [(d.1) Adjudication eligibility.--An individual who has been
27 convicted of an offense under section 3802 (relating to driving
28 under influence of alcohol or controlled substance) and does not
29 have a prior offense as defined in section 3806(a) (relating to
30 prior offenses) shall be eligible for an occupational limited

1 license only if the individual has served 60 days of the
2 suspension imposed for the offense.

3 (d.2) Suspension eligibility.--

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

10 (i) is otherwise eligible for restoration;

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

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

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

18 (v) has certified to the department under paragraph
19 (3).

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

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

30 * * *

1 Section 2. Title 75 is amended by adding a section to read:
2 § 1556. Ignition interlock limited license.

3 (a) Issuance.--

4 (1) The department shall issue an ignition interlock
5 limited license under this section to an individual whose
6 operating privileges have been suspended for:

7 (i) a violation under section 3802 (relating to
8 driving under influence of alcohol or controlled
9 substance) or under former section 3731 (relating to
10 driving under influence of alcohol or controlled
11 substance); or

12 (ii) a refusal to submit to chemical testing
13 under section 1547 (relating to chemical testing to
14 determine amount of alcohol or controlled substance).

15 (2) The department shall issue an ignition interlock
16 limited license under the provisions of this section only
17 upon receiving proof that each motor vehicle owned or to be
18 operated by the individual has been equipped with an approved
19 ignition interlock system as defined in section 3801
20 (relating to definitions) as a condition of issuing an
21 ignition interlock limited license.

22 (3) An ignition interlock limited license issued under
23 the provisions of this section permits an individual to
24 operate motor vehicles equipped with a functioning ignition
25 interlock system, as defined in section 3801.

26 (4) Any period in which an individual holds a valid
27 ignition interlock limited license under this section shall
28 count on a day-for-day basis toward any mandatory period of
29 ignition interlock use imposed under section 3805 (relating
30 to ignition interlock) arising from the same incident.

1 (b) Petition.--

2 (1) An applicant for an ignition interlock limited
3 license shall file a petition with the department, by
4 certified mail, on a form prescribed by the department, and
5 shall include proof that an approved ignition interlock
6 system, as defined in section 3801, has been installed in one
7 or more motor vehicles that the applicant seeks permission to
8 operate.

9 (2) The petition shall also include proof of financial
10 responsibility covering each vehicle the applicant requests
11 to be permitted to operate. The department shall promulgate
12 regulations to require additional information as well as
13 additional evidence to verify the information contained in
14 the petition.

15 (3) The applicant shall surrender the applicant's
16 driver's license in accordance with section 1540 (relating to
17 surrender of license). If the applicant's driver's license
18 has been lost or stolen, the applicant shall submit an
19 application for a replacement license, along with the proper
20 fee. If the applicant is a nonresident licensed driver, the
21 applicant shall submit an acknowledgment of suspension in
22 lieu of a driver's license. If the applicant's license has
23 expired, the applicant shall submit an application for
24 renewal, along with the appropriate fee. All fines, costs and
25 restoration fees must be paid at the time of petition.

26 (4) Consistent with the provisions of this section, if
27 the applicant is qualified, the department shall issue an
28 ignition interlock limited license within 20 days of receipt
29 of the petition and all other requirements for issuance.

30 (c) Fee.--The application fee for an ignition interlock

1 limited license shall be \$50. This fee shall be nonrefundable.

2 (d) Unauthorized issuance.--The department shall prohibit
3 issuance of an ignition interlock limited license to:

4 (1) Any individual who is not licensed to drive by the
5 Commonwealth or any other state.

6 (2) Any individual who is required by this title to take
7 an examination and who has failed to take and pass the
8 examination.

9 (3) Any individual whose operating privilege has been
10 recalled or canceled.

11 (4) Any individual who has an unsatisfied judgment
12 against the individual as the result of a motor vehicle
13 operation, until the judgment has been satisfied under the
14 provisions of section 1774 (relating to payments sufficient
15 to satisfy judgments) or an installment agreement has been
16 entered into to satisfy the judgment, as permitted under
17 section 1772(b) (relating to suspension for nonpayment of
18 judgments) or 1775 (relating to installment payment of
19 judgments), and the financial responsibility of the person
20 has been established.

21 (5) Any individual applying for an ignition interlock
22 limited license to operate a commercial motor vehicle.

23 (6) Any individual if the department is disqualified
24 from issuing the ignition interlock limited license under the
25 Commercial Motor Vehicle Safety Act of 1986 (Title XII of
26 Public Law 99-570, 49 U.S.C. app. § 2701 et seq.) or the
27 Motor Carrier Safety Improvement Act of 1999 (Public Law 106-
28 159, 113 Stat. 1748).

29 (7) Any individual whose operating privilege has been
30 suspended under section 1532(a.1) (relating to suspension of

1 operating privilege) for conviction or adjudication of
2 delinquency based on a violation of section 3732 (relating to
3 homicide by vehicle) or 3735 (relating to homicide by vehicle
4 while driving under influence).

5 (e) Adjudication eligibility.--An individual who has been
6 convicted of an offense under section 3802 shall be eligible to
7 apply for and, if otherwise qualified, be issued an ignition
8 interlock limited license upon conviction.

9 (f) Suspension eligibility.--The following shall apply:

10 (1) An individual whose license has been suspended under
11 section 1547(b) shall be eligible to apply for and, if
12 otherwise qualified, be issued an ignition interlock limited
13 license under this section if the individual:

14 (i) has served six months of the suspension imposed
15 under section 1547(b) (1) (i); or

16 (ii) has served nine months of the suspension
17 imposed under section 1547(b) (1) (ii).

18 (2) An individual whose license has been suspended under
19 section 3804(e) (relating to penalties) shall be eligible to
20 apply for and, if otherwise qualified, be issued an ignition
21 interlock limited license under this section if the
22 individual:

23 ~~(i) has served six months of the suspension imposed~~ <--
24 ~~under section 3804(e) (2) (i); or~~

25 ~~(ii) has served nine months of the suspension~~
26 ~~imposed under section 3804 (e) (2) (ii).~~

27 ~~(3) An individual whose license has been suspended under~~
28 ~~section 3807(d) (related to Accelerated Rehabilitative~~
29 ~~Disposition) shall be eligible to apply for and, if otherwise~~
30 ~~qualified, be issued an ignition interlock limited license~~

~~under this section if the suspension has been fully served.~~

(I) HAS SERVED THREE MONTHS OF THE SUSPENSION <--
IMPOSED UNDER SECTION 3804(E) (2) (I), WHERE THE INDIVIDUAL
HAS NOT HAD A PRIOR OFFENSE, AS DEFINED UNDER SECTION
3806(A) (RELATING TO PRIOR OFFENSES), WITHIN THE PAST TEN
YEARS;

(II) HAS SERVED SIX MONTHS OF THE SUSPENSION IMPOSED
UNDER SECTION 3804(E) (2) (I); OR

(III) HAS SERVED NINE MONTHS OF THE SUSPENSION
IMPOSED UNDER SECTION 3804(E) (2) (II).

(g) Credit against mandatory ignition interlock
requirement.--Any period during which an individual holds a
valid ignition interlock limited license under subsection (e) or
(f) shall count on a day-for-day basis toward the mandatory
period of ignition interlock usage imposed under the applicable
subparagraphs of section 3805(b) (2) arising from the same
incident.

(h) Certification to the department.--If an individual
applies for an ignition interlock limited license under this
section, the department shall require that one or more motor
vehicles owned or to be operated by the individual be equipped
with a functioning ignition interlock system, as defined in
section 3801, as a condition of issuing an ignition interlock
limited license with an ignition interlock restriction.

(i) Offenses committed during a period for which an ignition
interlock limited license has been issued.--If 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) for any individual

1 who has been issued an ignition interlock limited license, the
2 department, at its sole discretion, shall either:

3 (1) extend the term of the ignition interlock limited
4 license for up to the original term for which the driver's
5 license was suspended or revoked; or

6 (2) recall the ignition interlock limited license and
7 the individual shall surrender the limited license to the
8 department or its agents designated under the authority of
9 section 1540.

10 (j) Restrictions.--

11 (1) Pursuant to subsection (a)(2), an individual who has
12 been issued an ignition interlock limited license shall
13 operate only motor vehicles equipped with a functioning
14 ignition interlock system, as defined in section 3801.

15 (2) Any individual who violates the conditions of
16 issuance or restrictions of the ignition interlock limited
17 license commits a summary offense and shall, upon conviction,
18 be sentenced to pay a fine of \$200; and, upon receipt of a
19 certified record of conviction, the department shall recall
20 the limited license.

21 (3) The operating privileges of an individual who has
22 been issued an ignition interlock limited license remain
23 under suspension or revocation, except when operating a motor
24 vehicle in accordance with the conditions of issuance and
25 restrictions of the ignition interlock limited license.

26 (k) Appeal from denial or recall of ignition interlock
27 limited license.--

28 (1) Any individual who is denied an ignition interlock
29 limited license or whose ignition interlock limited license
30 is extended or recalled under subsection (i) may file with

1 the department a petition for a hearing. The hearing shall be
2 conducted in accordance with 2 Pa.C.S. (relating to
3 administrative law and procedure).

4 (2) The department may charge a reasonable fee based on
5 the cost to the department for conducting the hearing.

6 (3) The appeal shall not operate as an automatic
7 supersedeas. If an administrative hearing officer orders a
8 supersedeas in any appeal, the individual shall earn no
9 credit toward serving the suspension for which the individual
10 was granted an ignition interlock limited license.

11 (4) An appeal from a decision of an administrative
12 hearing officer may be taken in the manner provided in 42
13 Pa.C.S. § 763(a) (relating to direct appeals from government
14 agencies).

15 (5) Appeals under this subsection are exempt from the
16 provisions of section 1550(b) (relating to judicial review)
17 and from the provisions of 42 Pa.C.S. § 933 (relating to
18 appeals from government agencies).

19 ~~Section 3. Section 3801 of Title 75 is amended by adding a~~ <--
20 ~~definition to read:~~

21 ~~§ 3801. Definitions.~~

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

25 ~~* * *~~

26 ~~"Ignition interlock limited license." A driver's license~~
27 ~~issued to an individual whose operating privileges are suspended~~
28 ~~or revoked for one or more violations of section 3802 (relating~~
29 ~~to driving under influence of alcohol or controlled substance)~~
30 ~~or 1547(b.1) (relating to chemical testing to determine amount~~

1 ~~of alcohol or controlled substance) requiring the individual to~~
2 ~~operate only motor vehicles equipped with a functioning ignition~~
3 ~~interlock system.~~

4 * * *

5 Section 4 3. Section 3805(a), (b) and (c) of Title 75 are <--
6 amended and the section is amended by adding ~~subsections A~~ <--
7 SUBSECTION to read:

8 § 3805. Ignition interlock.

9 (a) General rule.--If a person violates section 3802
10 (relating to driving under influence of alcohol or controlled
11 substance) [and, within the past ten years, has a prior offense
12 as defined in section 3806(a) (relating to prior offenses)],
13 except for a violation of section 3802(a) where the individual
14 has not had a prior offense, as defined under section 3806(a)
15 (relating to prior offenses), within the past ten years, or has
16 had their operating privileges suspended pursuant to section
17 [1547(b.1)] 1547 (relating to chemical testing to determine <--
18 amount of alcohol or controlled substance) or 3808(c) (relating
19 to illegally operating a motor vehicle not equipped with
20 ignition interlock) and the person seeks a restoration of
21 operating privileges, the department shall require as a
22 condition of issuing a restricted license pursuant to this
23 section that the following occur:

24 (1) Each motor vehicle owned or to be operated by the
25 person [or registered to the person] has been equipped with
26 an ignition interlock system and remains so for the duration
27 of the restricted license period.

28 (2) If there are no motor vehicles owned or to be
29 operated by the person or registered to the person that the
30 person so certify to the department. [A person so certifying

1 shall be deemed to have satisfied the requirement that all
2 motor vehicles owned by the person or registered to the
3 person be equipped with an ignition interlock system as
4 required by this subsection.]

5 ~~(a.1) No license issued. If the department receives the~~ <--
6 ~~certification under subsection (a) (2) from a person, no license~~
7 ~~under this subsection shall be issued to the person.~~

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

21 (c) Issuance of unrestricted license.--One year from the
22 date of issuance of an ignition interlock restricted license
23 under this section, if otherwise eligible, a person may be
24 issued a replacement license under section 1951(d) that does not
25 contain the ignition interlock system restriction. The
26 department shall not issue an unrestricted license until a
27 person has presented all of the following:

28 (1) Proof that the person has completed the ignition
29 interlock restricted license period under this section.

30 (2) Certification by the company that provided the

1 ignition interlock device that the person has complied with
2 subsection (h.2).

3 * * *

4 (h.2) Declaration of compliance.--Restrictions imposed under
5 section 1556 shall remain in effect until the department
6 receives a declaration from the person's ignition interlock
7 device vendor, in a form provided or approved by the department,
8 certifying that the following incidents have not occurred in the
9 two consecutive months prior to the date entered on the
10 certificate:

11 (1) An attempt to start the vehicle with a breath
12 alcohol concentration of 0.08 or more, not followed within
13 five minutes by a subsequent attempt with a breath alcohol
14 concentration lower than 0.08.

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

16 (3) Failure of the person to appear at the ignition
17 interlock system vendor when required for maintenance,
18 repair, calibration, monitoring, inspection or replacement of
19 the device such that the ignition interlock system no longer
20 functions as required under subsection (h).

21 * * *

22 Section 5 4. Section 3808(c) (1) of Title 75 is amended to <--
23 read:

24 § 3808. Illegally operating a motor vehicle not equipped with
25 ignition interlock.

26 * * *

27 (c) Suspension of operating privilege.--Notwithstanding
28 section 3805(c) and (i):

29 (1) If a person who is required to only drive, operate
30 or be in actual physical control of the movement of a motor

1 vehicle equipped with an ignition interlock system violates
2 this section, upon receipt of a certified record of the
3 conviction, the department shall not issue a replacement
4 license to the person under section 1951(d) (relating to
5 driver's license and learner's permit) that does not contain
6 an ignition interlock restriction for a period of one year
7 from the date of conviction until the person has complied
8 with the requirements of section 3805 (relating to ignition
9 interlock).

10 * * *

11 Section ~~6~~ 5. This act shall take effect in ~~90 days~~ 15
12 MONTHS.

<--