

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 290 Session of 2015

INTRODUCED BY RAFFERTY, SMUCKER, SCARNATI, GREENLEAF, VULAKOVICH, AUMENT, VANCE, STACK, TEPLITZ, SCHWANK, BLAKE, DINNIMAN AND PILEGGI, JANUARY 16, 2015

SENATOR RAFFERTY, TRANSPORTATION, AS AMENDED, JANUARY 21, 2015

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 chemical testing to determine amount of alcohol or controlled
5 substance and for occupational limited license and providing
6 for ignition interlock limited license; and, in driving after
7 imbibing alcohol or utilizing drugs, further providing for
8 ignition interlock and for the offense of illegally operating
9 a motor vehicle not equipped with ignition interlock.

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

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

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

20 \* \* \*

21 "Ignition interlock limited license." A driver's license

1 issued to an individual whose operating privilege is suspended  
2 or revoked for one or more violations of section 1547 (relating  
3 to chemical testing to determine amount of alcohol or controlled  
4 substance) or 3802 (relating to driving under influence of  
5 alcohol or controlled substance) requiring the individual to  
6 operate only motor vehicles equipped with a functioning ignition  
7 interlock system.

8 \* \* \*

9 Section 2. Sections 1547(a), (c) introductory paragraph, (2)  
10 and (3), (g.1), (h), (i) and (j) and 1553(a)(1), (d)(6), (7) and  
11 (8), (d.1) and (d.2) of Title 75 are amended to read:

12 § 1547. Chemical testing to determine amount of alcohol or  
13 controlled substance.

14 (a) General rule.--Any person who drives, operates or is in  
15 actual physical control of the movement of a vehicle in this  
16 Commonwealth shall be deemed to have given consent to one or  
17 more chemical tests of breath[, blood or urine] or blood for the  
18 purpose of determining the alcoholic content of blood or the  
19 presence of a controlled substance if a police officer has  
20 reasonable grounds to believe the person to have been driving,  
21 operating or in actual physical control of the movement of a  
22 vehicle:

23 (1) in violation of section 1543(b)(1.1) (relating to  
24 driving while operating privilege is suspended or revoked),  
25 3802 (relating to driving under influence of alcohol or  
26 controlled substance) or 3808(a)(2) (relating to illegally  
27 operating a motor vehicle not equipped with ignition  
28 interlock); or

29 (2) which was involved in an accident in which the  
30 operator or passenger of any vehicle involved or a pedestrian

1 required treatment at a medical facility or was killed.

2 \* \* \*

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

11 \* \* \*

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

23 (ii) For purposes of blood [and urine] testing to  
24 determine blood alcohol or controlled substance content  
25 levels, the procedures and equipment prescribed by the  
26 Department of Health shall be reviewed within 120 days of  
27 the effective date of this subparagraph and at least  
28 every two years thereafter to ensure that consideration  
29 is given to scientific and technological advances so that  
30 testing conducted in accordance with the prescribed

1 procedures utilizing the prescribed equipment will be as  
2 accurate and reliable as science and technology permit.

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

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

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

12 \* \* \*

13 (g.1) Cost of testing.--The cost of chemical testing,  
14 including the drawing of blood [and urine], performed under this  
15 section shall be paid as follows:

16 (1) By the individual tested, if the individual was  
17 convicted of or placed into any preadjudication program or  
18 adjudicated delinquent for a violation of section 3802.

19 (2) By the requesting authority, if the individual was  
20 found not guilty under section 3802 or had the charges  
21 dismissed or withdrawn.

22 (h) Test by personal physician.--The person tested shall be  
23 permitted to have a physician of his own choosing administer an  
24 additional breath[, blood or urine] or blood chemical test and  
25 the results of the test shall also be admissible in evidence.  
26 The chemical testing given at the direction of the police  
27 officer shall not be delayed by a person's attempt to obtain an  
28 additional test.

29 (i) Request by driver for test.--Any person involved in an  
30 accident or placed under arrest for a violation of section

1 1543(b)(1.1), 3802 or 3808(a)(2) may request a chemical test of  
2 his breath[, blood or urine] or blood. Such requests shall be  
3 honored when it is reasonably practicable to do so.

4 (j) Immunity from civil liability and reports.--No  
5 physician, nurse or technician or hospital employing such  
6 physician, nurse or technician, and no other employer of such  
7 physician, nurse or technician shall be civilly liable for  
8 withdrawing blood [or obtaining a urine sample] and reporting  
9 test results to the police at the request of a police officer  
10 pursuant to this section. No physician, nurse or technician or  
11 hospital employing such physician, nurse or technician may  
12 administratively refuse to perform such tests and provide the  
13 results to the police officer except as may be reasonably  
14 expected from unusual circumstances that pertain at the time the  
15 request is made.

16 \* \* \*

17 § 1553. Occupational limited license.

18 (a) Issuance.--

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

1 committed while the driver was operating a commercial motor  
2 vehicle, the driver shall not be issued an occupational  
3 limited license for the purpose of operating a commercial  
4 motor vehicle. The department shall prohibit the issuance of  
5 an occupational limited license when disqualified from doing  
6 so under the Commercial Motor Vehicle Safety Act of 1986  
7 (Title XII of Public Law 99-570, 49 U.S.C. App. § 2701 et  
8 seq.) or the Motor Carrier Safety Improvement Act of 1999  
9 (Public Law 106-159, 113 Stat. 1748).

10 \* \* \*

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

13 \* \* \*

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

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

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

28 \* \* \*

29 [(d.1) Adjudication eligibility.--An individual who has been  
30 convicted of an offense under section 3802 (relating to driving

1 under influence of alcohol or controlled substance) and does not  
2 have a prior offense as defined in section 3806(a) (relating to  
3 prior offenses) shall be eligible for an occupational limited  
4 license only if the individual has served 60 days of the  
5 suspension imposed for the offense.

6 (d.2) Suspension eligibility.--

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

13 (i) is otherwise eligible for restoration;

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

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

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

21 (v) has certified to the department under paragraph  
22 (3).

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

27 (3) If an individual seeks an occupational limited  
28 license under this subsection, the department shall require  
29 that each motor vehicle owned or registered to the person has  
30 been equipped with an ignition interlock system as defined in

1 section 3801 as a condition of issuing an occupational  
2 limited license with an ignition interlock restriction.]

3 \* \* \*

4 Section 3. Title 75 is amended by adding a section to read:

5 § 1556. Ignition interlock limited license.

6 (a) Issuance.--

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

10 (i) a violation under section 3802 (relating to  
11 driving under influence of alcohol or controlled  
12 substance) or under former section 3731 (relating to  
13 driving under influence of alcohol or controlled  
14 substance); or

15 (ii) a refusal to submit to chemical testing under  
16 section 1547 (relating to chemical testing to determine  
17 amount of alcohol or controlled substance).

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

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

29 (4) Any period in which an individual holds a valid  
30 ignition interlock limited license under this section shall



1 count on a day-for-day basis toward any mandatory period of  
2 ignition interlock use imposed under section 3805 (relating  
3 to ignition interlock) arising from the same incident.

4 (b) Petition.--

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

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

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

29 (4) Consistent with the provisions of this section, if  
30 the applicant is qualified, the department shall issue an

1 ignition interlock limited license within 20 days of receipt  
2 of the petition and all other requirements for issuance.

3 (c) Fee.--The application fee for an ignition interlock  
4 limited license shall be \$50. This fee shall be nonrefundable.

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

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

9 (2) Any individual who is required by this title to take  
10 an examination and who has failed to take and pass the  
11 examination.

12 (3) Any individual whose operating privilege has been  
13 recalled or canceled.

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

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

26 (6) Any individual if the department is disqualified  
27 from issuing the ignition interlock limited license under the  
28 Commercial Motor Vehicle Safety Act of 1986 (Title XII of  
29 Public Law 99-570, 49 U.S.C. § 31302 et seq.) or the Motor  
30 Carrier Safety Improvement Act of 1999 (Public Law 106-159,

1 113 Stat. 1748).

2 (7) Any individual whose operating privilege has been  
3 suspended under section 1532(a.1) (relating to suspension of  
4 operating privilege) for conviction or adjudication of  
5 delinquency based on a violation of section 3732 (relating to  
6 homicide by vehicle) or 3735 (relating to homicide by vehicle  
7 while driving under influence).

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

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

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

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

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

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

26 ~~(i) has served three months of the suspension~~ <--  
27 ~~imposed under section 3804(e) (2) (i), where the individual~~  
28 ~~has not had a prior offense, as defined under section~~  
29 ~~3806(a) (relating to prior offenses), within the past 10~~  
30 ~~years;~~

1           (I) HAS NOT HAD A PRIOR OFFENSE, AS DEFINED UNDER  
 2           SECTION 3806(A) (RELATING TO PRIOR OFFENSES), WITHIN THE  
 3           PAST 10 YEARS. THE INDIVIDUAL SHALL BE IMMEDIATELY  
 4           ELIGIBLE FOR A SUSPENSION IMPOSED UNDER SECTION 3804(E)  
 5           (2)(I);

6           (ii) has served six months of the suspension imposed  
 7           under section 3804(e)(2)(i); or

8           (iii) has served nine months of the suspension  
 9           imposed under section 3804(e)(2)(ii).

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

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

23          (i) Offenses committed during a period for which an ignition  
 24          interlock limited license has been issued.--If the department  
 25          receives a report of conviction of an offense for which the  
 26          penalty is a cancellation, disqualification, recall, suspension  
 27          or revocation of operating privileges or a report under section  
 28          3815(c)(4) (relating to mandatory sentencing) for any individual  
 29          who has been issued an ignition interlock limited license, the  
 30          department, at its sole discretion, shall either:

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

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

8 (j) Restrictions.--

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

13       (2) The operating privileges of an individual who has  
14 been issued an ignition interlock limited license remain  
15 under suspension or revocation, except when operating a motor  
16 vehicle in accordance with the conditions of issuance and  
17 restrictions of the ignition interlock limited license.

18 (k) Appeal from denial or recall of ignition interlock  
19 limited license.--

20       (1) Any individual who is denied an ignition interlock  
21 limited license or whose ignition interlock limited license  
22 is extended or recalled under subsection (i) may file with  
23 the department a petition for a hearing. The hearing shall be  
24 conducted in accordance with 2 Pa.C.S. (relating to  
25 administrative law and procedure).

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

28       (3) The appeal shall not operate as an automatic  
29 supersedeas. If an administrative hearing officer orders a  
30 supersedeas in any appeal, the individual shall earn no

1 credit toward serving the suspension for which the individual  
2 was granted an ignition interlock limited license.

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

7 (5) Appeals under this subsection are exempt from the  
8 provisions of section 1550(b) (relating to judicial review)  
9 and from the provisions of 42 Pa.C.S. § 933 (relating to  
10 appeals from government agencies).

11 Section 4. Section 3805(a), (b) and (c) of Title 75 are  
12 amended and the section is amended by adding a subsection to  
13 read:

14 § 3805. Ignition interlock.

15 (a) General rule.--If a person violates section 3802  
16 (relating to driving under influence of alcohol or controlled  
17 substance) [and, within the past ten years, has a prior offense  
18 as defined in section 3806(a) (relating to prior offenses)],  
19 except if the individual is subject to the penalties under  
20 section 3804(a) (relating to penalties), has not had a prior  
21 offense, as defined under section 3806(a) (relating to prior  
22 offenses), within the past 10 years, or has had their operating  
23 privileges suspended pursuant to section [1547(b.1)] 1547  
24 (relating to chemical testing to determine amount of alcohol or  
25 controlled substance) or 3808(c) (relating to illegally  
26 operating a motor vehicle not equipped with ignition interlock)  
27 and the person seeks a restoration of operating privileges, the  
28 department shall require as a condition of issuing a restricted  
29 license pursuant to this section that the following occur:

30 (1) Each motor vehicle owned or to be operated by the

1 person [or registered to the person] has been equipped with  
2 an ignition interlock system and remains so for the duration  
3 of the restricted license period.

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

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

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

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

3           (2) Certification by the company that provided the  
4 ignition interlock device that the person has complied with  
5 subsection (h.2).

6           \* \* \*

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

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

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

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

24           \* \* \*

25           Section 5. Section 3808(c)(1) of Title 75 is amended to  
26 read:

27 § 3808. Illegally operating a motor vehicle not equipped with  
28           ignition interlock.

29           \* \* \*

30           (c) Suspension of operating privilege.--Notwithstanding



1 section 3805(c) and (i):

2 (1) If a person who is required to only drive, operate  
3 or be in actual physical control of the movement of a motor  
4 vehicle equipped with an ignition interlock system violates  
5 this section, upon receipt of a certified record of the  
6 conviction, the department shall not issue a replacement  
7 license to the person under section 1951(d) (relating to  
8 driver's license and learner's permit) that does not contain  
9 an ignition interlock restriction for a period of one year  
10 from the date of conviction until the person has complied  
11 with the requirements of section 3805 (relating to ignition  
12 interlock).

13 \* \* \*

14 Section 6. This act shall take effect in 15 months.