

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 773 Session of 2019

INTRODUCED BY KILLION, ARGALL, BLAKE, BREWSTER, COSTA, FOLMER, KEARNEY, MARTIN, MASTRIANO, MENSCH, PHILLIPS-HILL, SANTARSIERO, TOMLINSON, YAW, COLLETT, BARTOLOTTA AND DINNIMAN, AUGUST 28, 2019

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 10, 2020

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 ~~ignition interlock limited license; in driving after imbibing~~
5 ~~alcohol or utilizing drugs, further providing for grading,~~
6 ~~for penalties, for ignition interlock and for mandatory~~
7 ~~sentencing and providing for 24/7 sobriety monitoring~~
8 ~~program; and providing for a study of driving under the~~
9 ~~influence courts.~~

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

11 AMENDING TITLE 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED <--
12 STATUTES, IN GENERAL PROVISIONS, FURTHER PROVIDING FOR
13 DEFINITIONS; IN LICENSING OF DRIVERS, FURTHER PROVIDING FOR
14 THE OFFENSE OF DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED
15 OR REVOKED; IN DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING
16 DRUGS, FURTHER PROVIDING FOR GRADING, FOR PENALTIES, FOR
17 IGNITION INTERLOCK, FOR PRIOR OFFENSES, FOR ACCELERATED
18 REHABILITATIVE DISPOSITION AND FOR MANDATORY SENTENCING AND
19 PROVIDING FOR 24/7 SOBRIETY MONITORING PROGRAM; AND PROVIDING
20 FOR A STUDY OF DRIVING UNDER THE INFLUENCE COURTS.

21 THIS ACT MAY BE REFERRED TO AS DEANA'S LAW.

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

24 ~~Section 1. Section 102 of Title 75 of the Pennsylvania <--~~

1 ~~Consolidated Statutes is amended by adding a definition to read:~~

2 ~~§ 102. Definitions.~~

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

8 * * *

9 ~~"Continuous alcohol monitoring device" or "CAM device." A~~
10 ~~monitoring device or instrument that:~~

11 ~~(1) is attached to the individual;~~

12 ~~(2) is designed to automatically test the presence of~~
13 ~~alcohol in an individual by contact with the skin of the~~
14 ~~individual at least once per one half hour regardless of the~~
15 ~~location on the individual;~~

16 ~~(3) detects the presence of alcohol; and~~

17 ~~(4) detects an attempt to tamper with, obstruct or~~
18 ~~remove the device or instrument.~~

19 * * *

20 ~~Section 2. Section 1556(b)(2) of Title 75 is amended to~~
21 ~~read:~~

22 ~~§ 1556. Ignition interlock limited license.~~

23 * * *

24 ~~(b) Petition.—~~

25 * * *

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

1 ~~the petition. Upon approval of the petition, the ignition~~
2 ~~interlock device must be installed in any motor vehicle to be~~
3 ~~operated by the individual, and proof of installation must be~~
4 ~~provided by the ignition interlock device vendor.~~

5 * * *

6 Section 3. ~~Section 3803(b) (3) and (4.1) of Title 75 are~~
7 ~~amended and the subsection is amended by adding a paragraph to~~
8 ~~read:~~

9 ~~§ 3803. Grading.~~

10 * * *

11 ~~(b) Other offenses.—~~

12 * * *

13 ~~(3) An individual who violates section 3802(a) (1) where~~
14 ~~there was an accident resulting in bodily injury, serious~~
15 ~~bodily injury or death of any person or in damage to a~~
16 ~~vehicle or other property, or who violates section [3802(b),~~
17 ~~(e)] 3802(e) or (f) and who has two prior offenses commits a~~
18 ~~misdemeanor of the first degree.~~

19 ~~(3.1) An individual who violates section 3802(b) and who~~
20 ~~has two prior offenses commits a felony of the third degree.~~

21 * * *

22 ~~(4.1) An individual who violates section 3802(a) (1)~~
23 ~~where the individual refused testing of breath or chemical~~
24 ~~testing pursuant to a valid search warrant, court order or~~
25 ~~any other basis permissible by the Constitution of the United~~
26 ~~States and the Constitution of Pennsylvania, or who violates~~
27 ~~section 3802(c) or (d) [and who] commits:~~

28 ~~(i) A felony of the third degree if the individual~~
29 ~~has two [or more] prior offenses [commits a felony of the~~
30 ~~third degree].~~

1 ~~(ii) A felony of the second degree if the individual~~
2 ~~has three prior offenses.~~

3 ~~(iii) A felony of the first degree if the individual~~
4 ~~has four or more prior offenses.~~

5 * * *

6 Section 4. ~~Section 3804 of Title 75 is amended by adding a~~
7 ~~subsection to read:~~

8 ~~§ 3804. Penalties.~~

9 * * *

10 ~~(c.2) Consecutive sentence. A sentence imposed upon a~~
11 ~~person under this section for a third or subsequent offense~~
12 ~~shall be served consecutively to any other sentence the person~~
13 ~~is serving and to any other sentence being then imposed by the~~
14 ~~court.~~

15 * * *

16 Section 5. ~~Section 3805(c) and (h.2) of Title 75 are amended~~
17 ~~to read:~~

18 ~~§ 3805. Ignition interlock.~~

19 * * *

20 ~~(c) Issuance of unrestricted license. One year from the~~
21 ~~date of issuance of an ignition interlock restricted license~~
22 ~~under this section, or two years from the date of issuance of an~~
23 ~~ignition interlock restricted license under this section in the~~
24 ~~case of a person convicted of a third or subsequent offense~~
25 ~~under section 3802, if otherwise eligible, a person may be~~
26 ~~issued a replacement license under section 1951(d) that does not~~
27 ~~contain the ignition interlock system restriction. The~~
28 ~~department shall not issue an unrestricted license until a~~
29 ~~person has presented all of the following:~~

30 ~~(1) Proof that the person has completed the ignition~~

1 ~~interlock restricted license period under this section.~~

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

5 ~~***~~

6 ~~(h.2) Declaration of compliance. Restrictions imposed under~~
7 ~~section 1556 (relating to ignition interlock limited license)~~
8 ~~shall remain in effect until the department receives a~~
9 ~~declaration from the person's ignition interlock device vendor,~~
10 ~~in a form provided or approved by the department, certifying~~
11 ~~that the following incidents have not occurred in the two~~
12 ~~consecutive months prior to the date entered on the certificate,~~
13 ~~and for the purposes of a suspension imposed under section~~
14 ~~3807(d)(2), the person's ignition interlock device vendor shall~~
15 ~~certify the following incidents have not occurred in the prior~~
16 ~~30 days entered on the certificate:~~

17 ~~(1) An attempt to start the vehicle with a breath-~~
18 ~~alcohol concentration of 0.08% or more, not followed within~~
19 ~~10 minutes by a subsequent attempt with a breath alcohol-~~
20 ~~concentration lower than 0.08%.~~

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

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

27 ~~If a violation under paragraph (1), (2) or (3) occurs, the~~
28 ~~vendor shall notify the department as to the violation on a form~~
29 ~~designated by the department, and the department shall notify~~
30 ~~the person of the violation and that ignition interlock device~~

1 ~~usage shall continue until no violations have occurred within a~~
2 ~~60 day period.~~

3 * * *

4 ~~Section 6. Section 3815(b)(2) of Title 75 is amended and the~~
5 ~~section is amended by adding a subsection to read:~~

6 ~~§ 3815. Mandatory sentencing.~~

7 * * *

8 ~~(b) Parole.~~

9 * * *

10 ~~(2) The following shall be conditions of parole:~~

11 ~~(i) If the offender is not determined under the~~
12 ~~procedures set forth in section 3814 to be addicted to~~
13 ~~alcohol or another substance, the offender must refrain~~
14 ~~from:~~

15 ~~(A) the use of illegal controlled substances;~~
16 ~~and~~

17 ~~(B) the abuse of prescription drugs, over the~~
18 ~~counter drugs or any other substances.~~

19 ~~(ii) If the offender is determined under the~~
20 ~~procedures set forth in section 3814 to be addicted to~~
21 ~~alcohol or another substance, the offender must do all of~~
22 ~~the following:~~

23 ~~(A) Refrain from:~~

24 ~~(I) the use of alcohol or illegal controlled~~
25 ~~substances; and~~

26 ~~(II) the abuse of prescription drugs, over~~
27 ~~the counter drugs or any other substances.~~

28 ~~(B) Participate in and cooperate with drug and~~
29 ~~alcohol addiction treatment under subsection (c).~~

30 ~~(iii) At the court's discretion and consistent with~~

~~section 3818 (relating to 24/7 sobriety monitoring program), an individual serving a sentence for a violation of section 3802 who has two or more prior offenses may be fitted with a CAM device for one year or for the duration of the period of parole, whichever is less.~~

~~(b.1) Probation. At the court's discretion, as a condition of a probation order and consistent with section 3818, an individual serving a sentence for a violation of section 3802 who has two or more prior offenses may be fitted with a CAM device for one year or for the duration of the period of probation, whichever is less.~~

~~* * *~~

~~Section 7. Title 75 is amended by adding a section to read: § 3818. 24/7 sobriety monitoring program.~~

~~(a) Establishment. A 24/7 sobriety monitoring program is established under the Unified Judicial System of Pennsylvania.~~

~~(b) Requirements. The use of or participation in a 24/7 sobriety monitoring program is required in one or more of the following for no less than 90 days as a condition of bail while adjudication of a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) is pending for an individual who has two or more prior offenses:~~

~~(1) A CAM device or any other similar alcohol monitoring technology or device as determined by the court.~~

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

~~(c) Determination and costs to be paid. The individual shall pay for all costs associated with the 24/7 sobriety~~

1 ~~monitoring program, including administrative and operating costs~~
2 ~~or costs associated with any required devices or technologies.~~
3 ~~The court may authorize the county to finance costs associated~~
4 ~~with the 24/7 sobriety monitoring program if the court, at any~~
5 ~~time, determines the individual lacks the financial ability to~~
6 ~~pay all or part of costs associated with a 24/7 sobriety~~
7 ~~monitoring program.~~

8 ~~(d) Financial inquiry. A court determination under~~
9 ~~subsection (c) shall be based on an appropriate inquiry into the~~
10 ~~financial circumstances of the individual required to~~
11 ~~participate in a 24/7 sobriety monitoring program and an~~
12 ~~affidavit or certificate, signed by that individual,~~
13 ~~demonstrating financial inability to pay all or part of the~~
14 ~~costs associated with the 24/7 sobriety monitoring program.~~

15 ~~(e) Prohibitions. An individual required to participate in~~
16 ~~a 24/7 sobriety monitoring program is prohibited from all of the~~
17 ~~following for the duration of the 24/7 sobriety monitoring~~
18 ~~program:~~

19 ~~(1) Imbibing alcohol, using controlled substances or~~
20 ~~both as determined by the court.~~

21 ~~(2) Tampering with devices or technologies associated~~
22 ~~with the 24/7 sobriety monitoring program.~~

23 ~~(3) Failing to comply with any other requirements~~
24 ~~ordered by the court as part of the 24/7 sobriety monitoring~~
25 ~~program.~~

26 ~~Section 8. The Department of Transportation, in consultation~~
27 ~~with the Pennsylvania State Police and the Administrative Office~~
28 ~~of Pennsylvania Courts, shall evaluate the effectiveness of~~
29 ~~driving under the influence courts in this Commonwealth and~~
30 ~~submit a report with findings and recommendations to the~~

1 ~~Transportation Committee of the Senate and the Transportation~~
2 ~~Committee of the House of Representatives within six months of~~
3 ~~the effective date of this section.~~

4 ~~Section 9. This act shall take effect in 120 days.~~

5 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--
6 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:
7 § 102. DEFINITIONS.

8 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
9 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
10 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
11 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
12 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

13 * * *

14 "CONTINUOUS ALCOHOL MONITORING DEVICE." A MONITORING DEVICE
15 OR INSTRUMENT THAT:

16 (1) IS ATTACHED TO AN INDIVIDUAL;

17 (2) IS DESIGNED TO AUTOMATICALLY AND FREQUENTLY TEST THE
18 PRESENCE OF ALCOHOL IN THE INDIVIDUAL REGARDLESS OF THE
19 METHOD BY WHICH THE DEVICE OR INSTRUMENT IS ATTACHED TO THE
20 INDIVIDUAL;

21 (3) DETECTS THE PRESENCE OF ALCOHOL; AND

22 (4) DETECTS AN ATTEMPT TO TAMPER WITH, OBSTRUCT OR
23 REMOVE THE DEVICE OR INSTRUMENT.

24 * * *

25 "REMOTE BREATH TESTING DEVICE." AN UNSUPERVISED MOBILE
26 BREATH TESTING DEVICE THAT:

27 (1) IS NOT AFFIXED TO A MOTOR VEHICLE;

28 (2) HAS THE ABILITY TO CONFIRM THE IDENTITY AND LOCATION
29 OF AN INDIVIDUAL; AND

30 (3) DETECTS THE PRESENCE OF ALCOHOL.

1 * * *

2 "SUBSTANCE MONITORING PROGRAM." THE COURT-ORDERED USE OF OR
3 PARTICIPATION IN ANY ONE OR MORE OF THE FOLLOWING AS A CONDITION
4 OF BAIL, PROBATION OR PAROLE CONSISTENT WITH SECTION 3818
5 (RELATING TO SUBSTANCE MONITORING PROGRAM):

6 (1) A CONTINUOUS ALCOHOL MONITORING DEVICE.

7 (2) A REMOTE BREATH TESTING DEVICE.

8 (3) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
9 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE AS DETERMINED BY
10 THE COURT.

11 * * *

12 SECTION 2. SECTION 1543(B) (1.1) (I) OF TITLE 75 IS AMENDED TO
13 READ:

14 § 1543. DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR
15 REVOKED.

16 * * *

17 (B) CERTAIN OFFENSES.--

18 * * *

19 (1.1) (I) A PERSON WHO HAS AN AMOUNT OF ALCOHOL BY
20 WEIGHT IN HIS BLOOD THAT IS EQUAL TO OR GREATER THAN .02%
21 AT THE TIME OF TESTING OR WHO AT THE TIME OF TESTING HAS
22 IN HIS BLOOD ANY AMOUNT OF A SCHEDULE I OR NONPRESCRIBED
23 SCHEDULE II OR III CONTROLLED SUBSTANCE, AS DEFINED IN
24 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
25 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
26 ITS METABOLITE OR [WHO REFUSES TESTING OF BLOOD OR
27 BREATH] WHO REFUSES TESTING OF BREATH UNDER SECTION 1547
28 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF
29 ALCOHOL OR CONTROLLED SUBSTANCE) OR CHEMICAL TESTING OF
30 BLOOD PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR

1 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE
2 UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA, AND
3 WHO DRIVES A MOTOR VEHICLE ON ANY HIGHWAY OR TRAFFICWAY
4 OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S
5 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A
6 CONDITION OF ACCEPTANCE OF ACCELERATED REHABILITATIVE
7 DISPOSITION FOR A VIOLATION OF SECTION 3802 OR FORMER
8 SECTION 3731 OR BECAUSE OF A VIOLATION OF SECTION 1547(B)
9 (1) OR 3802 OR FORMER SECTION 3731 OR IS SUSPENDED UNDER
10 SECTION 1581 FOR AN OFFENSE SUBSTANTIALLY SIMILAR TO A
11 VIOLATION OF SECTION 3802 OR FORMER SECTION 3731 SHALL,
12 UPON A FIRST CONVICTION, BE GUILTY OF A SUMMARY OFFENSE
13 AND SHALL BE SENTENCED TO PAY A FINE OF \$1,000 AND TO
14 UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN 90
15 DAYS.

16 * * *

17 SECTION 3. SECTION 3803(B) (3) AND (4.1) OF TITLE 75 ARE
18 AMENDED TO READ:

19 § 3803. GRADING.

20 * * *

21 (B) OTHER OFFENSES.--

22 * * *

23 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1) WHERE
24 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
25 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A
26 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B) ,
27 (E) OR (F) AND WHO HAS TWO PRIOR OFFENSES COMMITS A
28 [MISDEMEANOR OF THE FIRST] FELONY OF THE THIRD DEGREE.

29 * * *

30 (4.1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1)

1 WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
2 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
3 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED
4 STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES
5 SECTION 3802(C) OR (D) [AND WHO] COMMITTS:

6 (I) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL
7 HAS TWO [OR MORE] PRIOR OFFENSES [COMMITTS A FELONY OF THE
8 THIRD DEGREE].

9 (II) A FELONY OF THE SECOND DEGREE IF THE INDIVIDUAL
10 HAS THREE PRIOR OFFENSES.

11 (III) A FELONY OF THE FIRST DEGREE IF THE INDIVIDUAL
12 HAS FOUR OR MORE PRIOR OFFENSES.

13 * * *

14 SECTION 4. SECTION 3804(E) (2) OF TITLE 75 IS AMENDED AND THE
15 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

16 § 3804. PENALTIES.

17 * * *

18 (C.2) CONSECUTIVE SENTENCE.--A SENTENCE IMPOSED UPON AN
19 INDIVIDUAL UNDER THIS SECTION WHO HAS TWO OR MORE PRIOR OFFENSES
20 SHALL BE SERVED CONSECUTIVELY TO ANY OTHER SENTENCE THE
21 INDIVIDUAL IS SERVING AND TO ANY OTHER SENTENCE BEING THEN
22 IMPOSED BY THE COURT.

23 * * *

24 (E) SUSPENSION OF OPERATING PRIVILEGES UPON CONVICTION.--

25 * * *

26 (2) SUSPENSION UNDER PARAGRAPH (1) SHALL BE IN
27 ACCORDANCE WITH THE FOLLOWING:

28 * * *

29 (II) 18 MONTHS FOR A MISDEMEANOR OF THE FIRST DEGREE
30 OR FELONY [OF THE THIRD DEGREE] UNDER THIS CHAPTER.

1 * * *

2 SECTION 5. SECTION 3805(C) AND (H.2) OF TITLE 75 ARE AMENDED
3 AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

4 § 3805. IGNITION INTERLOCK.

5 * * *

6 (C) ISSUANCE OF UNRESTRICTED LICENSE.--[ONE YEAR FROM THE
7 DATE OF ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE
8 UNDER THIS SECTION, IF] IF OTHERWISE ELIGIBLE, A PERSON MAY BE
9 ISSUED A REPLACEMENT LICENSE UNDER SECTION 1951(D) THAT DOES NOT
10 CONTAIN THE IGNITION INTERLOCK SYSTEM RESTRICTION. THE
11 DEPARTMENT SHALL NOT ISSUE AN UNRESTRICTED LICENSE UNTIL A
12 PERSON HAS PRESENTED ALL OF THE FOLLOWING:

13 (1) PROOF THAT THE PERSON HAS COMPLETED THE IGNITION
14 INTERLOCK RESTRICTED LICENSE PERIOD UNDER [THIS SECTION]
15 SUBSECTION (C.1).

16 (2) CERTIFICATION BY THE VENDOR THAT PROVIDED THE
17 IGNITION INTERLOCK DEVICE THAT THE PERSON HAS COMPLIED WITH
18 SUBSECTION (H.2).

19 (C.1) RESTRICTED LICENSE PERIOD.--AN INDIVIDUAL MAY BE
20 ISSUED AN UNRESTRICTED LICENSE UNDER SUBSECTION (C) AFTER A
21 PERIOD OF TIME AS FOLLOWS:

22 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), ONE YEAR
23 FROM THE DATE OF ISSUANCE OF THE IGNITION INTERLOCK
24 RESTRICTED LICENSE.

25 (2) TWO YEARS FROM THE DATE OF ISSUANCE OF THE IGNITION
26 INTERLOCK RESTRICTED LICENSE IN THE CASE OF AN INDIVIDUAL
27 CONVICTED OF AN OFFENSE UNDER SECTION 3802 WHO HAS TWO OR
28 MORE PRIOR OFFENSES.

29 * * *

30 (H.2) DECLARATION OF COMPLIANCE.--RESTRICTIONS IMPOSED UNDER

1 SECTION 1556 [(RELATING TO IGNITION INTERLOCK LIMITED LICENSE)]
2 SHALL REMAIN IN EFFECT UNTIL THE DEPARTMENT RECEIVES A
3 DECLARATION FROM THE PERSON'S IGNITION INTERLOCK DEVICE VENDOR,
4 IN A FORM PROVIDED OR APPROVED BY THE DEPARTMENT, CERTIFYING
5 THAT THE FOLLOWING INCIDENTS HAVE NOT OCCURRED IN THE TWO
6 CONSECUTIVE MONTHS PRIOR TO THE DATE ENTERED ON THE CERTIFICATE,
7 AND FOR THE PURPOSES OF A SUSPENSION IMPOSED UNDER SECTION
8 3807(D) (2), THE PERSON'S IGNITION INTERLOCK DEVICE VENDOR SHALL
9 CERTIFY THE FOLLOWING INCIDENTS HAVE NOT OCCURRED IN THE PRIOR
10 30 DAYS ENTERED ON THE CERTIFICATE:

11 (1) AN ATTEMPT TO START THE VEHICLE WITH A BREATH
12 ALCOHOL CONCENTRATION OF 0.08% OR MORE, NOT FOLLOWED WITHIN
13 10 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 6. SECTION 3806(B) (1) OF TITLE 75 IS AMENDED TO
23 READ:

24 § 3806. PRIOR OFFENSES.

25 * * *

26 (B) TIMING.--

27 (1) FOR PURPOSES OF SECTIONS 1553(D.2) (RELATING TO
28 OCCUPATIONAL LIMITED LICENSE), 1556 (RELATING TO IGNITION
29 INTERLOCK LIMITED LICENSE), 3803 (RELATING TO GRADING), 3804
30 (RELATING TO PENALTIES) [AND] 3805 (RELATING TO IGNITION

1 INTERLOCK), 3815 (RELATING TO MANDATORY SENTENCING) AND 3818
2 (RELATING TO SUBSTANCE MONITORING PROGRAM), THE PRIOR OFFENSE
3 MUST HAVE OCCURRED:

4 (I) WITHIN 10 YEARS PRIOR TO THE DATE OF THE OFFENSE
5 FOR WHICH THE DEFENDANT IS BEING SENTENCED; OR

6 (II) ON OR AFTER THE DATE OF THE OFFENSE FOR WHICH
7 THE DEFENDANT IS BEING SENTENCED.

8 * * *

9 SECTION 7. SECTION 3807(A) OF TITLE 75 IS AMENDED BY ADDING
10 A PARAGRAPH TO READ:

11 § 3807. ACCELERATED REHABILITATIVE DISPOSITION.

12 (A) ELIGIBILITY.--

13 * * *

14 (2.1) NOTWITHSTANDING THE PROCEDURES FOR ACCELERATED
15 REHABILITATIVE DISPOSITION FOR OTHER CRIMES, THE ATTORNEY FOR
16 THE COMMONWEALTH SHALL NOT SUBMIT A CHARGE BROUGHT UNDER THIS
17 CHAPTER FOR ACCELERATED REHABILITATIVE DISPOSITION UNLESS
18 ALL OF THE FOLLOWING APPLY:

19 (I) THE DEFENDANT ADMITS THAT THE COMMONWEALTH'S
20 EVIDENCE WOULD PROVE THE ELEMENTS BEYOND A REASONABLE
21 DOUBT UNDER SECTION 3802.

22 (II) THE DEFENDANT AGREES THAT THE DEFENDANT'S
23 ADMISSION MAY BE USED AS A PRIOR CONVICTION FOR THE
24 PURPOSE OF INCREASING THE GRADING AND PENALTY OF ANY
25 SUBSEQUENT OFFENSE UNDER THIS TITLE.

26 (III) THE DEFENDANT KNOWINGLY AND VOLUNTARILY WAIVES
27 THE DEFENDANT'S RIGHT TO CHALLENGE THE USE OF THE
28 ACCELERATED REHABILITATIVE DISPOSITION AS A PRIOR
29 CONVICTION FOR THE PURPOSE OF ENHANCING THE GRADING AND
30 SENTENCING OF ANY SUBSEQUENT OFFENSE UNDER THIS TITLE.

1 SECTION 8. SECTION 3815(B) (2) OF TITLE 75 IS AMENDED AND THE
2 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:
3 § 3815. MANDATORY SENTENCING.

4 * * *

5 (B) PAROLE.--

6 * * *

7 (2) THE FOLLOWING SHALL BE CONDITIONS OF PAROLE:

8 (I) IF THE OFFENDER IS NOT DETERMINED UNDER THE
9 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
10 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST REFRAIN
11 FROM:

12 (A) THE USE OF ILLEGAL CONTROLLED SUBSTANCES;
13 AND

14 (B) THE ABUSE OF PRESCRIPTION DRUGS, OVER-THE-
15 COUNTER DRUGS OR ANY OTHER SUBSTANCES.

16 (II) IF THE OFFENDER IS DETERMINED UNDER THE
17 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
18 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST DO ALL OF
19 THE FOLLOWING:

20 (A) REFRAIN FROM:

21 (I) THE USE OF ALCOHOL OR ILLEGAL CONTROLLED
22 SUBSTANCES; AND

23 (II) THE ABUSE OF PRESCRIPTION DRUGS, OVER-
24 THE-COUNTER DRUGS OR ANY OTHER SUBSTANCES.

25 (B) PARTICIPATE IN AND COOPERATE WITH DRUG AND
26 ALCOHOL ADDICTION TREATMENT UNDER SUBSECTION (C).

27 (III) IN ADDITION TO ANY OTHER CONDITION OR
28 RESTRICTION IMPOSED, AN INDIVIDUAL WHO VIOLATES SECTION
29 3802 (A) (1) WHERE THE INDIVIDUAL REFUSED TESTING OR BREATH
30 OR CHEMICAL TESTING PURSUANT TO A VALID SEARCH WARRANT,

1 COURT ORDER OR ANY OTHER BASIS PERMISSIBLE BY THE
2 CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF
3 PENNSYLVANIA OR WHO VIOLATES SECTION 3802(C) OR (D) AND
4 WHO HAS TWO OR MORE PRIOR OFFENSES SHALL BE ORDERED BY
5 THE COURT TO PARTICIPATE IN A SUBSTANCE MONITORING
6 PROGRAM UNDER SECTION 3818.

7 (B.1) PROBATION.--IN ADDITION TO ANY OTHER CONDITION OR
8 RESTRICTION IMPOSED, AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)
9 (1) WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
10 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY
11 OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES
12 AND THE CONSTITUTION OF PENNSYLVANIA OR WHO VIOLATES SECTION
13 3802(C) OR (D) AND WHO HAS TWO OR MORE PRIOR OFFENSES SHALL BE
14 ORDERED BY THE COURT TO PARTICIPATE IN A SUBSTANCE MONITORING
15 PROGRAM AS A CONDITION OF PROBATION UNDER SECTION 3818.

16 * * *

17 SECTION 9. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
18 § 3818. SUBSTANCE MONITORING PROGRAM.

19 (A) MANDATORY PARTICIPATION.--A COURT SHALL REQUIRE AN
20 INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS
21 FOLLOWS:

22 (1) AS A CONDITION OF PROBATION OR PAROLE, IN ADDITION
23 TO ANY OTHER CONDITION OR RESTRICTION IMPOSED, A COURT SHALL
24 ORDER AN INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING
25 PROGRAM FOR ONE YEAR OR FOR THE DURATION OF THE PROBATION OR
26 PAROLE, WHICHEVER IS LESS, IN ALL OF THE FOLLOWING
27 CIRCUMSTANCES WHERE THE INDIVIDUAL HAS TWO OR MORE PRIOR
28 OFFENSES:

29 (I) THE INDIVIDUAL VIOLATES SECTION 3802(C) OR (D)
30 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR

1 CONTROLLED SUBSTANCE).

2 (II) THE INDIVIDUAL VIOLATES SECTION 3802(A) (1) AND
3 THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
4 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER
5 OR ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE
6 UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA.

7 (2) AS A CONDITION OF BAIL, IN ADDITION TO ANY OTHER
8 CONDITION OR RESTRICTION IMPOSED, A COURT SHALL ORDER AN
9 INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM
10 FOR NO LESS THAN 90 DAYS IN ALL OF THE FOLLOWING
11 CIRCUMSTANCES:

12 (I) THE INDIVIDUAL IS PENDING ADJUDICATION FOR A
13 VIOLATION OF SECTION 3802 AND HAS THREE OR MORE PRIOR
14 OFFENSES.

15 (II) THE INDIVIDUAL IS PENDING ADJUDICATION FOR A
16 VIOLATION OF SECTION 3802 AND HAS A COMBINATION OF PRIOR
17 OFFENSES AND PENDING ADJUDICATIONS FOR A VIOLATION OF
18 SECTION 3802 EQUAL TO THREE OR MORE.

19 (B) EVALUATION REQUIRED.--IN ADDITION TO ANY OTHER CONDITION
20 OR RESTRICTION IMPOSED, AN INDIVIDUAL WHO IS NOT REQUIRED TO
21 PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM UNDER SUBSECTION
22 (A) SHALL BE EVALUATED BY A COURT TO DETERMINE WHETHER, AT THE
23 COURT'S DISCRETION, THE INDIVIDUAL MAY BE ORDERED TO PARTICIPATE
24 IN A SUBSTANCE MONITORING PROGRAM AS FOLLOWS:

25 (1) AS A CONDITION OF PROBATION OR PAROLE WHERE THE
26 INDIVIDUAL VIOLATES SECTION 3802 AND HAS ONE OR MORE PRIOR
27 OFFENSES.

28 (2) AS A CONDITION OF BAIL WHERE THE INDIVIDUAL IS
29 PENDING ADJUDICATION FOR A VIOLATION OF SECTION 3802 AND HAS
30 ONE OR MORE PRIOR OFFENSES.

1 (3) AS A CONDITION OF BAIL WHERE THE INDIVIDUAL IS
2 PENDING ADJUDICATION CONCURRENTLY FOR TWO OR MORE VIOLATIONS
3 OF SECTION 3802.

4 (C) PROGRAM REQUIREMENTS.--

5 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), WHEN
6 DETERMINING THE MONITORING DEVICES, TECHNOLOGIES OR TESTING
7 REQUIREMENTS TO BE REQUIRED AS PART OF A SUBSTANCE MONITORING
8 PROGRAM, THE COURT SHALL HAVE THE DISCRETION TO DETERMINE THE
9 DEVICES, TECHNOLOGIES AND TESTING REQUIREMENTS TO BE USED
10 BASED UPON THE INDIVIDUAL'S:

11 (I) PRIOR OFFENSES;

12 (II) MOST RECENT VIOLATION OF SECTION 3802;

13 (III) ANY PENDING ADJUDICATION FOR A VIOLATION OF
14 SECTION 3802; AND

15 (IV) ANY OTHER FACTOR DEEMED APPROPRIATE BY THE
16 COURT.

17 (2) THE COURT SHALL REQUIRE THE USE OF A CONTINUOUS
18 ALCOHOL MONITORING DEVICE AS PART OF A SUBSTANCE MONITORING
19 PROGRAM FOR AN INDIVIDUAL PARTICIPATING IN A SUBSTANCE
20 MONITORING PROGRAM UNDER SUBSECTION (A) AS FOLLOWS:

21 (I) IF THE INDIVIDUAL VIOLATED SECTION 3802 (C);

22 (II) IF THE INDIVIDUAL HAS A PENDING ADJUDICATION
23 FOR A VIOLATION OF SECTION 3802 (C);

24 (III) IF THE INDIVIDUAL HAS A PRIOR OFFENSE FOR A
25 VIOLATION OF SECTION 3802 (B) OR (C);

26 (IV) IF THE INDIVIDUAL VIOLATED SECTION 3802 (A) (1)
27 AND REFUSED TESTING OF BREATH OR CHEMICAL TESTING
28 PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY
29 OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED
30 STATES AND THE CONSTITUTION OF PENNSYLVANIA; OR

1 (V) IF THE INDIVIDUAL IS PENDING ADJUDICATION FOR A
2 VIOLATION OF SECTION 3802(A) (1) AND REFUSED TESTING FOR
3 BREATH OR CHEMICAL TESTING PURSUANT TO A VALID SEARCH
4 WARRANT, COURT ORDER OR ANY OTHER BASIS PERMISSIBLE BY
5 THE CONSTITUTION OF THE UNITED STATES AND THE
6 CONSTITUTION OF PENNSYLVANIA.

7 (3) THE COURT SHALL REQUIRE A REMOTE BREATH TESTING
8 DEVICE IN LIEU OF A CONTINUOUS ALCOHOL MONITORING DEVICE
9 REQUIRED UNDER PARAGRAPH (2) IF THE INDIVIDUAL IS UNABLE TO
10 USE A CONTINUOUS ALCOHOL MONITORING DEVICE DUE TO A PHYSICAL
11 LIMITATION OR MEDICAL CONDITION AS DETERMINED BY THE COURT.

12 (D) DETERMINATION AND COSTS TO BE PAID.--

13 (1) IF THE COURT ORDERS AN INDIVIDUAL TO PARTICIPATE IN
14 A SUBSTANCE MONITORING PROGRAM, THE INDIVIDUAL SHALL PAY FOR
15 COSTS ASSOCIATED WITH THE INDIVIDUAL'S PARTICIPATION IN THE
16 SUBSTANCE MONITORING PROGRAM, INCLUDING COSTS ASSOCIATED WITH
17 ANY REQUIRED DEVICE OR TECHNOLOGY.

18 (2) THE COURT MAY ORDER THE COUNTY TO FINANCE COSTS
19 ASSOCIATED WITH THE SUBSTANCE MONITORING PROGRAM IF THE
20 COURT, AT ANY TIME, DETERMINES THE INDIVIDUAL LACKS THE
21 FINANCIAL ABILITY TO PAY COSTS ASSOCIATED WITH THE
22 INDIVIDUAL'S PARTICIPATION IN A SUBSTANCE MONITORING PROGRAM.

23 (E) FINANCIAL INQUIRY.--

24 (1) A COURT DETERMINATION UNDER SUBSECTION (D) SHALL BE
25 BASED ON AN APPROPRIATE INQUIRY INTO THE FINANCIAL
26 CIRCUMSTANCES OF THE INDIVIDUAL REQUIRED TO PARTICIPATE IN A
27 SUBSTANCE MONITORING PROGRAM AND AN AFFIDAVIT OR CERTIFICATE,
28 SIGNED BY THAT INDIVIDUAL, DEMONSTRATING FINANCIAL INABILITY
29 TO PAY ALL OR PART OF THE COSTS ASSOCIATED WITH THE SUBSTANCE
30 MONITORING PROGRAM.

1 (2) A COURT MAY REASSESS THE INDIVIDUAL'S ABILITY TO PAY
2 AT ANY TIME DURING THE DURATION OF THE SUBSTANCE MONITORING
3 PROGRAM AND MAKE SUBSEQUENT APPROPRIATE INQUIRIES INTO THE
4 FINANCIAL CIRCUMSTANCES OF THE INDIVIDUAL.

5 (F) PROHIBITIONS.--AN INDIVIDUAL ORDERED TO PARTICIPATE IN A
6 SUBSTANCE MONITORING PROGRAM IS PROHIBITED FROM ALL OF THE
7 FOLLOWING FOR THE DURATION OF THE SUBSTANCE MONITORING PROGRAM:

8 (1) IMBIBING ALCOHOL, USING CONTROLLED SUBSTANCES, OR
9 BOTH, AS DETERMINED BY THE COURT.

10 (2) TAMPERING WITH ANY DEVICE OR TECHNOLOGY ASSOCIATED
11 WITH THE SUBSTANCE MONITORING PROGRAM.

12 (3) FAILING TO COMPLY WITH ANY OTHER REQUIREMENT ORDERED
13 BY THE COURT AS PART OF THE SUBSTANCE MONITORING PROGRAM.

14 (G) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
15 CONSTRUED TO PROHIBIT A COURT FROM:

16 (1) ORDERING AN INDIVIDUAL PENDING ADJUDICATION FOR A
17 SINGLE VIOLATION OF SECTION 3802 WITH NO PRIOR OFFENSES TO
18 PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS A CONDITION
19 OF BAIL.

20 (2) ORDERING AN INDIVIDUAL CONVICTED OF A VIOLATION OF
21 SECTION 3802 WHO HAS NO PRIOR OFFENSES TO PARTICIPATE IN A
22 SUBSTANCE MONITORING PROGRAM AS A CONDITION OF PROBATION OR
23 PAROLE.

24 SECTION 10. THIS ACT SHALL TAKE EFFECT IN 120 DAYS.