

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 16 Session of 2017

INTRODUCED BY BLAKE, FONTANA, COSTA, SCHWANK, HUGHES, RAFFERTY, BOSCOLA, WARD AND HAYWOOD, MARCH 24, 2017

SENATOR RAFFERTY, TRANSPORTATION, AS AMENDED, SEPTEMBER 26, 2018

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in driving after imbibing alcohol or utilizing <--
3 drugs, providing for immediate suspension of operating
4 privilege. IN LICENSING OF DRIVERS, PROVIDING FOR AUTOMATIC <--
5 SUSPENSION AND ADDITIONAL PENALTIES.

6 This act may be referred to as Shane's Law.

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

9 Section 1. Title 75 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 ~~§ 3804.1. Immediate suspension of operating privilege.~~ <--

12 ~~(a) Mandatory suspension. Notwithstanding any other~~
13 ~~provision under this chapter to the contrary and in addition to~~
14 ~~other penalties provided under law, the department shall~~
15 ~~immediately suspend the operating privilege of an individual who~~
16 ~~has violated section 3802 (relating to driving under influence~~
17 ~~of alcohol or controlled substance) if:~~

18 ~~(1) the individual killed or seriously injured another~~
19 ~~individual in connection with the violation; or~~

~~(2) there was a passenger under 14 years of age in the vehicle at the time of the violation.~~

~~(b) Notification. The suspension under subsection (a) shall occur immediately after the department receives a certified copy of the charges filed against an individual to whom subsection (a) applies from a law enforcement agency in this Commonwealth.~~

~~(c) Timing of suspension. The suspension of operating privilege under this section shall occur regardless of whether the individual has been found guilty or has entered a plea of guilty or nolo contendere.~~

~~(d) Cooperation. Each law enforcement agency in this Commonwealth shall cooperate in providing information to the department to carry out the provisions of this section.~~

~~(e) Rules and regulations. The department shall promulgate rules and regulations necessary to implement the provisions of this section.~~

§ 1547.1. AUTOMATIC SUSPENSION AND ADDITIONAL PENALTIES.

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(A) GENERAL RULE.--ANY DRIVER WHO OPERATES OR IS IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE IN THIS COMMONWEALTH SHALL BE DEEMED TO HAVE GIVEN CONSENT TO AN AUTOMATIC SUSPENSION OF DRIVING PRIVILEGES IF A CRIMINAL COMPLAINT HAS BEEN FILED AGAINST THE DRIVER AND A PRELIMINARY ARRAIGNMENT HAS OCCURRED FOR A VIOLATION OF THE FOLLOWING:

(1) SECTION 3735 (RELATING TO HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE).

(2) SECTION 3735.1 (RELATING TO AGGRAVATED ASSAULT BY VEHICLE WHILE DRIVING UNDER THE INFLUENCE).

(B) PERIOD OF SUSPENSION.--THE FOLLOWING APPLY:

(1) THE DEPARTMENT SHALL SUSPEND THE OPERATING PRIVILEGE OF A DRIVER UNDER SUBSECTION (A) AS FOLLOWS:

1 (I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (II), FOR A
2 PERIOD OF 12 MONTHS.

3 (II) FOR A PERIOD OF 18 MONTHS IF ANY OF THE
4 FOLLOWING APPLY:

5 (A) THE DRIVER'S OPERATING PRIVILEGES HAVE
6 PREVIOUSLY BEEN SUSPENDED UNDER THIS SECTION.

7 (B) THE DRIVER HAS, PRIOR TO THE FILING OF A
8 COMPLAINT AND THE COMPLETION OF A PRELIMINARY
9 ARRAIGNMENT FOR AN OFFENSE LISTED UNDER SUBSECTION
10 (A), BEEN SENTENCED FOR ANY OF THE FOLLOWING:

11 (I) AN OFFENSE UNDER SECTION 3802 (RELATING
12 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
13 CONTROLLED SUBSTANCE);

14 (II) AN OFFENSE UNDER FORMER SECTION 3731
15 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL
16 OR CONTROLLED SUBSTANCE); OR

17 (III) AN EQUIVALENT TO AN OFFENSE UNDER
18 SUBCLAUSE (I) OR (II).

19 (2) A SUSPENSION IMPOSED PURSUANT TO THIS SECTION SHALL
20 COUNT AS CREDIT TOWARDS ANY SUSPENSION IMPOSED FOR A
21 CONVICTION UNDER EITHER OF THE FOLLOWING:

22 (I) SECTION 3735.

23 (II) SECTION 3735.1.

24 (C) NOTICE AND RIGHT TO APPEAL.--THE FOLLOWING APPLY:

25 (1) IT SHALL BE THE DUTY OF THE ISSUING AUTHORITY NAMED
26 IN THE CITATION TO INFORM THE DRIVER THAT THE DRIVER'S
27 OPERATING PRIVILEGE WILL BE SUSPENDED UPON THE FILING OF A
28 CRIMINAL COMPLAINT AND COMPLETION OF A PRELIMINARY
29 ARRAIGNMENT FOR AN OFFENSE LISTED UNDER SUBSECTION (A) AND
30 THAT THE DRIVER WILL BE SUBJECT TO A RESTORATION FEE OF UP TO

1 \$2,000.

2 (2) ANY DRIVER WHOSE OPERATING PRIVILEGE IS SUSPENDED
3 UNDER THE PROVISIONS OF THIS SECTION SHALL HAVE THE SAME
4 RIGHT OF APPEAL AS PROVIDED FOR UNDER SECTION 1550 (RELATING
5 TO JUDICIAL REVIEW).

6 (D) IGNITION INTERLOCK.--NOTWITHSTANDING SECTION 3805(C)
7 (RELATING TO IGNITION INTERLOCK), IF A DRIVER RECEIVES A
8 SUSPENSION PURSUANT TO THIS SECTION WHO, AT THE TIME OF THE
9 OFFENSE, WAS REQUIRED TO COMPLY WITH THE PROVISIONS OF SECTION
10 3805 PRIOR TO OBTAINING A REPLACEMENT LICENSE UNDER SECTION
11 1951(D) (RELATING TO DRIVER'S LICENSE AND LEARNER'S PERMIT) AND
12 IS DRIVING A VEHICLE AT THE TIME OF OFFENSE THAT DOES NOT
13 CONTAIN AN IGNITION INTERLOCK RESTRICTION OR IGNITION INTERLOCK
14 LIMITATION, THE SUSPENSION IMPOSED UNDER THIS SECTION SHALL
15 RESULT IN THE RECALL OF ANY IGNITION INTERLOCK RESTRICTED
16 LICENSE PREVIOUSLY ISSUED AND THE DRIVER SHALL SURRENDER THE
17 IGNITION INTERLOCK RESTRICTED LICENSE OR IGNITION INTERLOCK
18 LIMITED LICENSE TO THE DEPARTMENT. PRIOR TO THE ISSUANCE OF A
19 REPLACEMENT LICENSE UNDER SECTION 1951(D) THAT DOES NOT CONTAIN
20 AN IGNITION INTERLOCK RESTRICTION OR IGNITION INTERLOCK
21 LIMITATION, THE DEPARTMENT SHALL REQUIRE THAT THE DRIVER COMPLY
22 WITH THE PROVISIONS OF SECTION 3805.

23 (E) RESTORATION FEES.--

24 (1) A DRIVER WHOSE OPERATING PRIVILEGE HAS BEEN
25 SUSPENDED IN ACCORDANCE WITH SUBSECTION (B) OR (C) SHALL:

26 (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OR
27 (III), PAY A RESTORATION FEE OF \$500.

28 (II) IF THE DEPARTMENT HAS PREVIOUSLY SUSPENDED THE
29 DRIVER'S OPERATING PRIVILEGE UNDER THIS SECTION OR
30 SECTION 1547 (RELATING TO CHEMICAL TESTING TO DETERMINE

1 AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE) ON ONE
2 OCCASION, PAY A RESTORATION FEE OF \$1,000.

3 (III) IF THE DEPARTMENT HAS PREVIOUSLY SUSPENDED THE
4 DRIVER'S OPERATING PRIVILEGE UNDER THIS SECTION OR
5 SECTION 1547 ON TWO OR MORE OCCASIONS, PAY A RESTORATION
6 FEE OF \$2,000.

7 (2) ALL RESTORATION FEES IMPOSED UNDER THIS SECTION MUST
8 BE PAID PRIOR TO THE REINSTATEMENT OF AN INDIVIDUAL'S
9 UNRESTRICTED OPERATING PRIVILEGE OR IN ACCORDANCE WITH
10 SECTION 1556(B)(3) (RELATING TO IGNITION INTERLOCK LIMITED
11 LICENSE) OR BEFORE A RESTRICTED LICENSE IS ISSUED IN
12 ACCORDANCE WITH SECTION 3805.

13 Section 2. This act shall take effect in 60 days.