
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2318 Session of
2015

INTRODUCED BY GREINER, CORBIN, PHILLIPS-HILL, TAYLOR, MACKENZIE,
SCHLOSSBERG, FEE, MILLARD, WATSON, A. HARRIS, GROVE,
HICKERNELL, ZIMMERMAN, MILNE AND SAVAGE, SEPTEMBER 9, 2016

REFERRED TO COMMITTEE ON TRANSPORTATION, SEPTEMBER 9, 2016

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in licensing of drivers, further providing for
3 notice of acceptance of Accelerated Rehabilitative
4 Disposition; and, in driving after imbibing alcohol or
5 utilizing drugs, further providing for grading, for penalties
6 and for prior offenses.

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

9 Section 1. Sections 1534(b), (c) and (d), 3803 and 3804 (a),
10 (b), (c), (c.1) and (e) of Title 75 of the Pennsylvania
11 Consolidated Statutes are amended to read:

12 § 1534. Notice of acceptance of Accelerated Rehabilitative
13 Disposition.

14 * * *

15 (b) Exception.--If a person is arrested for any offense
16 enumerated in section 3802 (relating to driving under influence
17 of alcohol or controlled substance) and is offered and accepts
18 Accelerated Rehabilitative Disposition under general rules, the
19 court shall promptly notify the department. The department shall

1 maintain a record of the acceptance of Accelerated
2 Rehabilitative Disposition [for a period of ten years from the
3 date of notification]. This record shall not be expunged by
4 order of court [or prior to the expiration of the ten-year
5 period].

6 [(c) Expungement.--Immediately following the expiration of
7 the ten-year period, the department shall expunge the record of
8 the acceptance of Accelerated Rehabilitative Disposition. The
9 department shall not require an order of court to expunge the
10 record.

11 (d) Exceptions to expungement.--The department shall not be
12 required to expunge the record of acceptance of Accelerated
13 Rehabilitative Disposition if:

- 14 (1) during the ten-year period, the department revokes
15 the operating privileges of a person pursuant to section 1542
16 (relating to revocation of habitual offender's license); or
17 (2) the person was a commercial driver at the time of
18 the violation causing the disposition.]

19 § 3803. Grading.

20 (a) Basic offenses.--Except as provided in subsection (b):

- 21 (1) An individual who violates section 3802(a) (relating
22 to driving under influence of alcohol or controlled
23 substance) and has no more than one prior offense within the
24 past 10 years as specified in section 3806(b) (relating to
25 prior offenses) commits a misdemeanor for which the
26 individual may be sentenced to a term of imprisonment of not
27 more than six months and to pay a fine under section 3804
28 (relating to penalties).

- 29 (2) An individual who violates section 3802(a) and has
30 no more than [one prior offense] two prior offenses as

1 specified in section 3806(a) commits a misdemeanor of the
2 second degree.

3 (3) An individual who violates section 3802(a) and has
4 no more than two prior offenses within the past 10 years as
5 specified in section 3806(b) commits a felony of the third
6 degree.

7 (4) An individual who violates section 3802(a) and has
8 three or more prior offenses as specified in section 3806(a)
9 commits a felony of the third degree.

10 (b) Other offenses.--

11 (1) An individual who violates section 3802(a)(1) where
12 there was an accident resulting in bodily injury, serious
13 bodily injury or death of any person or in damage to a
14 vehicle or other property, or who violates section 3802(b),
15 (e) or (f) and who has no more than one prior offense within
16 the past 10 years as specified in section 3806(b) commits a
17 misdemeanor for which the individual may be sentenced to a
18 term of imprisonment of not more than six months and to pay a
19 fine under section 3804.

20 (2) An individual who violates section 3802(a) where
21 another individual under 18 years of age was an occupant of
22 the vehicle when the violation occurred, section 3802(a)(1)
23 or (f)(2), (3) or (4) where the individual refused testing of
24 blood or breath, or who violates section 3802(c) or (d) and
25 who has no prior offenses commits a misdemeanor for which the
26 individual may be sentenced to a term of imprisonment of not
27 more than six months and to pay a fine under section 3804.

28 (3) An individual who violates section 3802(a)(1) where
29 there was an accident resulting in bodily injury, serious
30 bodily injury or death of any person or in damage to a

1 vehicle or other property, or who violates section 3802(b),
2 (e) or (f) and who has [more than one prior offense commits a
3 misdemeanor of the first degree.] no more than two prior
4 offenses as specified in section 3806(a) commits a
5 misdemeanor of the first degree.

6 (3.1) An individual who violates section 3802(a)(1)
7 where there was an accident resulting in bodily injury,
8 serious bodily injury or death of an individual or in damage
9 to a vehicle or other property, or who violates section
10 3802(b), (e) or (f) and who has no more than two prior
11 offenses within the past 10 years as specified in section
12 3806(b) commits a felony of the third degree.

13 (3.2) An individual who violates section 3802(a)(1)
14 where there was an accident resulting in bodily injury,
15 serious bodily harm or death of an individual or in damage to
16 a vehicle or other property, or who violates section 3802(b),
17 (e) or (f) and who has more than two prior offenses as
18 specified in section 3806(a) commits a felony of the third
19 degree.

20 (4) An individual who violates section 3802(a) where
21 another individual under 18 years of age was an occupant of
22 the vehicle when the violation occurred, section 3802(a)(1)
23 or (f)(2), (3) or (4) where the individual refused testing of
24 blood or breath, or who violates section 3802(c) or (d) and
25 who has [one or more prior offenses] no more than one prior
26 offense within the past 10 years as specified in section
27 3806(b) commits a misdemeanor of the first degree.

28 (4.1) An individual who violates section 3802(a) where
29 another individual under 18 years of age was an occupant of
30 the vehicle when the violation occurred, section 3802(a)(1)

1 or (f) (2), (3) or (4) where the individual refused testing of
2 blood or breath, or who violates section 3802(c) or (d) and
3 who has no more than two prior offenses as specified in
4 section 3806(a) commits a misdemeanor of the first degree.

5 (4.2) An individual who violates section 3802(a) where
6 another individual under 18 years of age was an occupant of
7 the vehicle when the violation occurred, section 3802(a) (1)
8 or (f) (2), (3) or (4) where the individual refused testing of
9 blood or breath, or who violates section 3802(c) or (d) and
10 who has no more than two prior offenses within the past 10
11 years as specified in section 3806(b) commits a felony of the
12 third degree.

13 (4.3) An individual who violates section 3802(a) where
14 another individual under 18 years of age was an occupant of
15 the vehicle when the violation occurred, section 3802(a) (1)
16 or (f) (2), (3) or (4) where the individual refused testing of
17 blood or breath, or who violates section 3802(c) or (d) and
18 who has more than two prior offenses as specified in section
19 3806(a) commits a felony of the third degree.

20 (5) An individual who violates section 3802 where a
21 minor under 18 years of age was an occupant in the vehicle
22 when the violation occurred commits a misdemeanor of the
23 first degree.

24 § 3804. Penalties.

25 (a) General impairment.--Except as set forth in subsection
26 (b) or (c), an individual who violates section 3802(a) (relating
27 to driving under influence of alcohol or controlled substance)
28 shall be sentenced as follows:

29 (1) For a first offense, to:

30 (i) undergo a mandatory minimum term of six months'

1 probation;
2 (ii) pay a fine of \$300;
3 (iii) attend an alcohol highway safety school
4 approved by the department; and
5 (iv) comply with all drug and alcohol treatment
6 requirements imposed under sections 3814 (relating to
7 drug and alcohol assessments) and 3815 (relating to
8 mandatory sentencing).

9 (2) For a second offense, to:

10 (i) undergo imprisonment for not less than five
11 days;
12 (ii) pay a fine of not less than \$300 nor more than
13 \$2,500;
14 (iii) attend an alcohol highway safety school
15 approved by the department; and
16 (iv) comply with all drug and alcohol treatment
17 requirements imposed under sections 3814 and 3815.

18 (3) For a third [or subsequent] offense graded as a
19 misdemeanor under section 3803 (relating to grading), to:

20 (i) undergo imprisonment of not less than ten days;
21 (ii) pay a fine of not less than \$500 nor more than
22 \$5,000; and
23 (iii) comply with all drug and alcohol treatment
24 requirements imposed under sections 3814 and 3815.

25 (4) For a third offense graded as a felony of the third
26 degree under section 3803, to:

27 (i) undergo imprisonment for not less than 90 days;
28 (ii) pay a fine of not less than \$1,500 nor more
29 than \$15,000; and
30 (iii) comply with all drug and alcohol treatment

1 requirements imposed under sections 3814 and 3815.

2 (5) For a fourth or subsequent offense graded as a
3 felony of the third degree under section 3803, to:

4 (i) undergo imprisonment for not less than six
5 months;

6 (ii) pay a fine of not less than \$2,500 nor more
7 than \$15,000; and

8 (iii) comply with all drug and alcohol treatment
9 requirements imposed under sections 3814 and 3815.

10 (b) High rate of blood alcohol; minors; commercial vehicles
11 and school buses and school vehicles; accidents.--Except as set
12 forth in subsection (c), an individual who violates section
13 3802(a) (1) where there was an accident resulting in bodily
14 injury, serious bodily injury or death of any person or damage
15 to a vehicle or other property or who violates section 3802(b),
16 (e) or (f) shall be sentenced as follows:

17 (1) For a first offense, to:

18 (i) undergo imprisonment of not less than 48
19 consecutive hours;

20 (ii) pay a fine of not less than \$500 nor more than
21 \$5,000;

22 (iii) attend an alcohol highway safety school
23 approved by the department; and

24 (iv) comply with all drug and alcohol treatment
25 requirements imposed under sections 3814 and 3815.

26 (2) For a second offense, to:

27 (i) undergo imprisonment of not less than 30 days;

28 (ii) pay a fine of not less than \$750 nor more than
29 \$5,000;

30 (iii) attend an alcohol highway safety school

1 approved by the department; and

2 (iv) comply with all drug and alcohol treatment
3 requirements imposed under sections 3814 and 3815.

4 (3) For a third offense graded as a misdemeanor under
5 section 3803, to:

6 (i) undergo imprisonment of not less than 90 days;

7 (ii) pay a fine of not less than \$1,500 nor more
8 than \$10,000; and

9 (iii) comply with all drug and alcohol treatment
10 requirements imposed under sections 3814 and 3815.

11 (3.1) For a third offense graded as a felony of the
12 third degree under section 3803, to:

13 (i) undergo imprisonment of not less than six
14 months;

15 (ii) pay a fine of not less than \$2,500 nor more
16 than \$15,000; and

17 (iii) comply with all drug and alcohol treatment
18 requirements imposed under sections 3814 and 3815.

19 (4) For a fourth or subsequent offense graded as an
20 offense of the third degree under section 3803, to:

21 (i) undergo imprisonment of not less than one year;

22 (ii) pay a fine of not less than [\$1,500] \$5,000 nor
23 more than [\$10,000] \$15,000; and

24 (iii) comply with all drug and alcohol treatment
25 requirements imposed under sections 3814 and 3815.

26 (c) Incapacity; highest blood alcohol; controlled
27 substances.--An individual who violates section 3802 where
28 another individual under 18 years of age was an occupant of the
29 vehicle when the violation occurred, section 3802(a)(1) or (f)
30 (2), (3) or (4) and refused testing of blood or breath or an

1 individual who violates section 3802(c) or (d) shall be
2 sentenced as follows:

3 (1) For a first offense, to:

4 (i) undergo imprisonment of not less than 72
5 consecutive hours;

6 (ii) pay a fine of not less than \$1,000 nor more
7 than \$5,000;

8 (iii) attend an alcohol highway safety school
9 approved by the department; and

10 (iv) comply with all drug and alcohol treatment
11 requirements imposed under sections 3814 and 3815.

12 (2) For a second offense, to:

13 (i) undergo imprisonment of not less than 90 days;

14 (ii) pay a fine of not less than \$1,500;

15 (iii) attend an alcohol highway safety school
16 approved by the department; and

17 (iv) comply with all drug and alcohol treatment
18 requirements imposed under sections 3814 and 3815.

19 (3) For a third [or subsequent] offense graded as a
20 misdemeanor under section 3803, to:

21 (i) undergo imprisonment of not less than one year;

22 (ii) pay a fine of not less than \$2,500; and

23 (iii) comply with all drug and alcohol treatment
24 requirements imposed under sections 3814 and 3815.

25 (4) For a third offense graded as a felony under section
26 3803, to:

27 (i) undergo imprisonment for not less than 18
28 months;

29 (ii) pay a fine of not less than \$5,000 nor more
30 than \$15,000; and

1 (iii) comply with all drug and alcohol treatment
2 requirements imposed under sections 3814 and 3815.

3 (5) For a fourth or subsequent offense graded as a
4 felony under section 3803, to:

5 (i) undergo imprisonment for not less than two
6 years;

7 (ii) pay a fine of not less than \$7,500 nor more
8 than \$15,000; and

9 (iii) comply with all drug and alcohol treatment
10 requirements imposed under sections 3814 and 3815.

11 [(c.1) Violation involving minor occupant.--An individual
12 who violates section 3803(b) (5) (relating to grading), in
13 addition to any penalty imposed in this chapter, shall be
14 sentenced as follows:

15 (1) For a first offense, to:

16 (i) pay a fine of not less than \$1,000; and

17 (ii) complete 100 hours of community service.

18 (2) For a second offense, to:

19 (i) pay a fine of not less than \$2,500; and

20 (ii) undergo imprisonment of not less than one month
21 nor more than six months.

22 (3) For a third or subsequent offense, undergo
23 imprisonment of not less than six months nor more than two
24 years.]

25 * * *

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

27 (1) The department shall suspend the operating privilege
28 of an individual under paragraph (2) upon receiving a
29 certified record of the individual's conviction of or an
30 adjudication of delinquency for:

1 (i) an offense under section 3802; or
2 (ii) an offense which is substantially similar to an
3 offense enumerated in section 3802 reported to the
4 department under Article III of the compact in section
5 1581 (relating to Driver's License Compact).

6 (2) Suspension under paragraph (1) shall be in
7 accordance with the following:

8 (i) Except as provided for in subparagraph (iii), 12
9 months for an ungraded misdemeanor or misdemeanor of the
10 second degree under this chapter.

11 (ii) 18 months for a misdemeanor of the first degree
12 under this chapter.

13 (ii.1) 24 months for a third offense graded as a
14 felony under this chapter.

15 (ii.2) 36 months for a fourth or subsequent offense
16 under this chapter.

17 (iii) There shall be no suspension for an ungraded
18 misdemeanor under section 3802(a) where the person is
19 subject to the penalties provided in subsection (a) and
20 the person has no prior offense.

21 (iv) For suspensions imposed under paragraph (1)
22 (ii), notwithstanding any provision of law or enforcement
23 agreement to the contrary, all of the following apply:

24 (A) Suspensions shall be in accordance with
25 Subchapter D of Chapter 15 (relating to the Driver's
26 License Compact).

27 (B) In calculating the term of a suspension for
28 an offense that is substantially similar to an
29 offense enumerated in section 3802, the department
30 shall presume that if the conduct reported had

1 occurred in this Commonwealth then the person would
2 have been convicted under section 3802(a)(2).

3 (v) Notwithstanding any other provision of law or
4 enforcement agreement to the contrary, the department
5 shall suspend the operating privilege of a driver for six
6 months upon receiving a certified record of a consent
7 decree granted under 42 Pa.C.S. Ch. 63 (relating to
8 juvenile matters) based on section 3802.

9 * * *

10 Section 2. Section 3806(b) of Title 75, amended May 25, 2016
11 (P.L.236, No.33), is amended to read:

12 § 3806. Prior offenses.

13 * * *

14 (b) Timing.--

15 (1) For purposes of sections 1553(d.2) (relating to
16 occupational limited license), 1556 (relating to ignition
17 interlock limited license), 3803 (relating to grading)[, 3804
18 (relating to penalties)] and 3805 (relating to ignition
19 interlock), the prior offense must have occurred:

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

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

24 (2) The court shall calculate the number of prior
25 offenses, if any, at the time of sentencing.

26 (3) If the defendant is sentenced for two or more
27 offenses in the same day, the offenses shall be considered
28 prior offenses within the meaning of this subsection.

29 Section 3. This act shall take effect in 60 days.