

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 37 Session of 2023

INTRODUCED BY BROWN, LANGERHOLC, FLYNN, STEFANO, SCHWANK, SANTARSIERO AND CULVER, APRIL 10, 2023

SENATOR LANGERHOLC, TRANSPORTATION, AS AMENDED, MAY 10, 2023

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 learners' permits and, for examination of applicant for <--
5 driver's license AND FOR SCHEDULE OF CONVICTIONS AND POINTS; <--
6 in rules of the road in general, further providing for
7 prohibiting text-based communications and providing for
8 prohibiting use of interactive wireless communications <--
9 devices MOBILE DEVICE; in miscellaneous provisions relating <--
10 to serious traffic offenses, further providing for the
11 offense of homicide by vehicle and for the offense of
12 aggravated assault by vehicle; and imposing penalties.

13 This act may be referred to as Paul Miller's Law.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The definition of "interactive wireless
17 communications device" in section 102 of Title 75 of the
18 Pennsylvania Consolidated Statutes is amended to read:

19 § 102. Definitions.

20 Subject to additional definitions contained in subsequent
21 provisions of this title which are applicable to specific
22 provisions of this title, the following words and phrases when
23 used in this title shall have, unless the context clearly

1 indicates otherwise, the meanings given to them in this section:

2 * * *

3 "Interactive ~~wireless communications~~ MOBILE device." A <--

4 wireless telephone, personal digital assistant, smart phone,
5 portable or mobile computer or similar device which can be used
6 for voice communication, texting, ~~e-mailing~~ emailing, browsing
7 the Internet ~~or~~, instant messaging~~.~~, ~~playing games, taking~~
8 ~~or transmitting images, recording or broadcasting videos,~~
9 ~~creating or sharing social media or otherwise sending or~~
10 ~~receiving electronic data.~~ The term does not include any of the
11 following:

12 (1) a device being used exclusively as a global
13 positioning or navigation system;

14 (2) a system or device that is physically or
15 electronically integrated into the vehicle~~;~~ ~~or~~ ~~except~~ <--
16 ~~being~~

17 (2.1) A DEVICE THAT IS connected to the vehicle solely <--
18 for the purpose of charging the system or device;

19 (3) a ~~communications~~ device that is affixed to a mass
20 transit vehicle, bus or school bus~~.~~;

21 (4) a mobile or handheld radio being used by a person
22 with an amateur radio station license issued by the Federal
23 Communications Commission;

24 (5) a device being used exclusively for emergency
25 notification purposes;

26 (6) a device being used exclusively by an emergency
27 service responder while operating an emergency vehicle and
28 engaged in the performance of duties; or

29 (7) a device being used exclusively by a commercial
30 driver who within the scope of the individual's employment

1 uses a device if the use is permitted under regulations
2 promulgated under 49 U.S.C. § 31136 (relating to United
3 States Government regulations).

4 * * *

5 Section 2. Section 1505(e)(2) of Title 75 is amended to
6 read:

7 § 1505. Learners' permits.

8 * * *

9 (e) Authorization to test for driver's license and junior
10 driver's license.--A person with a learner's permit is
11 authorized to take the examination for a regular or junior
12 driver's license for the class of vehicle for which a permit is
13 held. Before a person under the age of 18 years may take the
14 examination for a junior driver's license, including a Class M
15 license to operate a motorcycle, the minor must:

16 * * *

17 (2) Present to the department a certification form
18 signed by the father, mother, guardian, person in loco
19 parentis or spouse of a married minor stating that the minor
20 applicant has:

21 (i) completed 65 hours of practical driving
22 experience accompanied as required under subsection (b);
23 [and]

24 (ii) except for a Class M license to operate a
25 motorcycle, the 65 hours included no less than ten hours
26 of nighttime driving and five hours of inclement weather
27 driving[.]; and

28 (iii) PRINTED, AT THE DEPARTMENT'S DISCRETION, OR <--
29 viewed educational materials provided on the department's
30 publicly accessible Internet website on the dangers of

1 distracted driving, which may include, but are not
2 limited to, written, electronic or video materials.

3 * * *

4 Section 3. Section 1508 of Title 75 is amended by adding a
5 subsection to read:

6 § 1508. Examination of applicant for driver's license.

7 * * *

8 (c.1) Distracted driving awareness.--The portion of the
9 examination on traffic laws shall contain at least one question
10 on distracted driving relating to the driver's ability to
11 understand the effects of distracted driving. The driver's
12 manual shall include a section relating to distracted driving,
13 along with related penalties.

14 * * *

15 ~~Section 4. Section 3316(a) and (d) of Title 75 are amended~~ <--
16 ~~to read:~~

17 ~~§ 3316. Prohibiting text based communications.~~

18 ~~(a) Prohibition. [No driver shall operate a motor vehicle~~
19 ~~on a highway or trafficway in this Commonwealth while using an~~
20 ~~interactive wireless communications device to send, read or~~
21 ~~write a text based communication while the vehicle is in motion.~~
22 ~~A person does not send, read or write a text based communication~~
23 ~~when the person reads, selects or enters a telephone number or~~
24 ~~name in an interactive wireless communications device for the~~
25 ~~purpose of activating or deactivating a voice communication or a~~
26 ~~telephone call.] No driver shall operate a motor vehicle on a~~
27 highway or trafficway in this Commonwealth while physically
28 using an interactive wireless communications device to send,
29 read or write a text based communication. A person does not
30 send, read or write a text based communication when:

1 ~~(1) the driver reads, selects or enters a telephone~~
2 ~~number or name in an interactive wireless communications~~
3 ~~device for the purposes of activating or deactivating a voice~~
4 ~~communication or a telephone call; or~~

5 ~~(2) the driver sends or receives the text based~~
6 ~~communication through a hands free accessory or other system~~
7 ~~or device integrated into the vehicle that allows for the~~
8 ~~sending or receiving of text based communications without the~~
9 ~~need for the driver to touch the interactive wireless~~
10 ~~communications device or read the text based communication.~~

11 * * *

12 ~~(d) Penalty. [A person who violates subsection (a) commits~~
13 ~~a summary offense and shall, upon conviction, be sentenced to~~
14 ~~pay a fine of \$50.] A person who violates subsection (a) commits~~
15 ~~a summary offense and shall, upon conviction, be sentenced to~~
16 ~~pay a fine of \$100. The following shall apply:~~

17 ~~(1) No points shall be added to the record of a driver~~
18 ~~on account of a violation of this section.~~

19 ~~(2) No costs or surcharges imposed under section 6506~~
20 ~~(relating to surcharge) or 42 Pa.C.S. § 1725.1 (relating to~~
21 ~~costs) shall be assessed or imposed on a conviction under~~
22 ~~this section.~~

23 * * *

24 SECTION 4. SECTIONS 1535(A) AND 3316 OF TITLE 75 ARE AMENDED <--
25 TO READ:

26 § 1535. SCHEDULE OF CONVICTIONS AND POINTS.

27 (A) GENERAL RULE.--A POINT SYSTEM FOR DRIVER EDUCATION AND
28 CONTROL IS HEREBY ESTABLISHED WHICH IS RELATED TO OTHER
29 PROVISIONS FOR USE, SUSPENSION AND REVOCATION OF THE OPERATING
30 PRIVILEGE AS SPECIFIED UNDER THIS TITLE. EVERY DRIVER LICENSED

1 IN THIS COMMONWEALTH WHO IS CONVICTED OF ANY OF THE FOLLOWING
 2 OFFENSES SHALL BE ASSESSED POINTS AS OF THE DATE OF VIOLATION IN
 3 ACCORDANCE WITH THE FOLLOWING SCHEDULE:

4	SECTION NUMBER	OFFENSE	POINTS
5	1512	VIOLATION OF RESTRICTION ON	
6		DRIVER'S LICENSE.	2
7	1571	VIOLATION CONCERNING LICENSE.	3
8	3102	FAILURE TO OBEY POLICEMAN OR	
9		AUTHORIZED PERSON.	2
10	3111.1	OBEDIENCE TO TRAFFIC-CONTROL	
11		DEVICES WARNING OF HAZARDOUS	
12		CONDITIONS.	2
13	3112 (A) (3) (I)	FAILURE TO STOP FOR A RED	
14	OR (II)	LIGHT.	3
15	3114 (A) (1)	FAILURE TO STOP FOR A FLASHING	
16		RED LIGHT.	3
17	3302	FAILURE TO YIELD HALF OF	
18		ROADWAY TO ONCOMING VEHICLE.	3
19	3303	IMPROPER PASSING.	3
20	3304	OTHER IMPROPER PASSING.	3
21	3305	OTHER IMPROPER PASSING.	3
22	3306 (A) (1)	OTHER IMPROPER PASSING.	4
23	3306 (A) (2)	OTHER IMPROPER PASSING.	3
24	3306 (A) (3)	OTHER IMPROPER PASSING.	3
25	3307	OTHER IMPROPER PASSING.	3
26	3310	FOLLOWING TOO CLOSELY.	3
27	<u>3316 (D) (3)</u>	<u>TEXT-BASED COMMUNICATIONS</u>	<u>2</u>
28	<u>3316.1 (D) (3)</u>	<u>USE OF INTERACTIVE MOBILE</u>	
29		<u>DEVICE</u>	<u>2</u>
30	3321	FAILURE TO YIELD TO DRIVER ON	3

1		THE RIGHT AT INTERSECTION.	
2	3322	FAILURE TO YIELD TO ONCOMING	
3		DRIVER WHEN MAKING LEFT TURN.	3
4	3323 (B)	FAILURE TO STOP FOR STOP SIGN.	3
5	3323 (C)	FAILURE TO YIELD AT YIELD	
6		SIGN.	3
7	3324	FAILURE TO YIELD WHEN ENTERING	
8		OR CROSSING ROADWAY BETWEEN	
9		INTERSECTIONS.	3
10	3327 (A) OR	DUTY OF DRIVER IN EMERGENCY	
11	(A.1)	RESPONSE AREA AND IN RELATION	
12		TO DISABLED VEHICLES.	2
13	3332	IMPROPER TURNING AROUND.	3
14	3341 (A)	FAILURE TO OBEY SIGNAL	
15		INDICATING APPROACH OF TRAIN.	2
16	3341 (B)	FAILURE TO COMPLY WITH	
17		CROSSING GATE OR BARRIER.	4
18		(AND 30 DAYS' SUSPENSION)	
19	3342 (B) OR (E)	FAILURE TO STOP AT RAILROAD	
20		CROSSINGS.	4
21	3344	FAILURE TO STOP WHEN ENTERING	
22		FROM ALLEY, DRIVEWAY OR	
23		BUILDING.	3
24	3345 (A)	FAILURE TO STOP FOR SCHOOL BUS	
25		WITH FLASHING RED LIGHTS.	5
26		(AND 60 DAYS' SUSPENSION)	
27	3361	DRIVING TOO FAST FOR	
28		CONDITIONS.	2
29	3362	EXCEEDING MAXIMUM SPEED.--OVER	
30		LIMIT:	

1		6-10	2
2		11-15	3
3		16-25	4
4		26-30	5
5		31-OVER	5

6 (AND DEPARTMENTAL HEARING
7 AND SANCTIONS PROVIDED
8 UNDER SECTION 1538(D))

9 3365 (B) EXCEEDING SPECIAL SPEED LIMIT
10 IN SCHOOL ZONE. 3
11 (AND 60 DAYS' SUSPENSION
12 FOR A SECOND OR SUBSEQUENT
13 OFFENSE)

14 3365 (C) EXCEEDING SPECIAL SPEED LIMIT
15 FOR TRUCKS ON DOWNGRADES. 3

16 3542 (A) FAILURE TO YIELD TO PEDESTRIAN
17 IN CROSSWALK. 2

18 3547 FAILURE TO YIELD TO PEDESTRIAN
19 ON SIDEWALK. 3

20 3549 (A) FAILURE TO YIELD TO BLIND
21 PEDESTRIAN. 3

22 3702 IMPROPER BACKING. 3

23 3714 (A) CARELESS DRIVING. 3

24 3745 LEAVING SCENE OF ACCIDENT
25 INVOLVING PROPERTY DAMAGE
26 ONLY. 4

27 * * *

28 § 3316. PROHIBITING TEXT-BASED COMMUNICATIONS.

29 (A) PROHIBITION.--[NO DRIVER SHALL OPERATE A MOTOR VEHICLE
30 ON A HIGHWAY OR TRAFFICWAY IN THIS COMMONWEALTH WHILE USING AN

1 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE TO SEND, READ OR
2 WRITE A TEXT-BASED COMMUNICATION WHILE THE VEHICLE IS IN MOTION.
3 A PERSON DOES NOT SEND, READ OR WRITE A TEXT-BASED COMMUNICATION
4 WHEN THE PERSON READS, SELECTS OR ENTERS A TELEPHONE NUMBER OR
5 NAME IN AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE FOR THE
6 PURPOSE OF ACTIVATING OR DEACTIVATING A VOICE COMMUNICATION OR A
7 TELEPHONE CALL.

8 (B) (RESERVED).

9 (C) SEIZURE.--THE PROVISIONS OF THIS SECTION SHALL NOT BE
10 CONSTRUED AS AUTHORIZING THE SEIZURE OR FORFEITURE OF AN
11 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE, UNLESS OTHERWISE
12 PROVIDED BY LAW.

13 (D) PENALTY.--A PERSON WHO VIOLATES SUBSECTION (A) COMMITS A
14 SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY
15 A FINE OF \$50.

16 (E) PREEMPTION OF LOCAL ORDINANCES.--IN ACCORDANCE WITH
17 SECTION 6101 (RELATING TO APPLICABILITY AND UNIFORMITY OF
18 TITLE), THIS SECTION SUPERSEDES AND PREEMPTS ALL ORDINANCES OF
19 ANY MUNICIPALITY WITH REGARD TO THE USE OF AN INTERACTIVE
20 WIRELESS COMMUNICATIONS DEVICE BY THE DRIVER OF A MOTOR VEHICLE.

21 (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "TEXT-
22 BASED COMMUNICATION" MEANS A TEXT MESSAGE, INSTANT MESSAGE,
23 ELECTRONIC MAIL OR OTHER WRITTEN COMMUNICATION COMPOSED OR
24 RECEIVED ON AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.]

25 EXCEPT AS PROVIDED IN SUBSECTION (C), A DRIVER MAY NOT ENGAGE IN
26 TEXTING WHILE DRIVING A MOTOR VEHICLE.

27 (B) EMPLOYER.--EXCEPT AS PROVIDED UNDER SUBSECTION (C), AN
28 EMPLOYER MAY NOT PERMIT OR REQUIRE A DRIVER OF THE EMPLOYER TO
29 ENGAGE IN TEXTING WHILE DRIVING A MOTOR VEHICLE.

30 (C) EMERGENCY USE EXCEPTION.--TEXTING WHILE DRIVING SHALL BE

1 PERMISSIBLE BY A DRIVER OF A MOTOR VEHICLE IF NECESSARY TO
2 COMMUNICATE WITH A LAW ENFORCEMENT OFFICIAL OR OTHER EMERGENCY
3 SERVICES TO PREVENT INJURY TO PERSONS OR PROPERTY.

4 (D) PENALTIES.--EXCEPT AS PROVIDED FOR IN SUBSECTION (E), A
5 PERSON WHO VIOLATES THIS SECTION COMMITS A SUMMARY OFFENSE. THE
6 FOLLOWING SHALL APPLY:

7 (1) FOR A FIRST CONVICTION WITH NO CONVICTION OF AND NO
8 PLEA OF NO CONTEST ACCEPTED TO A CHARGE OF VIOLATING THIS
9 SECTION WITHIN THE PREVIOUS 60-MONTH PERIOD, AS MEASURED FROM
10 THE DATES ANY PREVIOUS CONVICTIONS WERE OBTAINED OR PLEAS OF
11 NO CONTEST WERE ACCEPTED TO THE DATE THE CURRENT CONVICTION
12 IS OBTAINED OR PLEA OF NO CONTEST IS ACCEPTED, A FINE OF NOT
13 MORE THAN \$150 SHALL BE IMPOSED.

14 (2) FOR A SECOND CONVICTION WITHIN A 60-MONTH PERIOD OF
15 TIME, AS MEASURED FROM THE DATES ANY PREVIOUS CONVICTIONS
16 WERE OBTAINED OR PLEAS OF NO CONTEST WERE ACCEPTED TO THE
17 DATE THE CURRENT CONVICTION IS OBTAINED OR PLEA OF NO CONTEST
18 IS ACCEPTED, A FINE OF NOT MORE THAN \$250.

19 (3) FOR A THIRD OR SUBSEQUENT CONVICTION WITHIN A 60-
20 MONTH PERIOD OF TIME, AS MEASURED FROM THE DATES ANY PREVIOUS
21 CONVICTIONS WERE OBTAINED OR PLEAS OF NO CONTEST WERE
22 ACCEPTED TO THE DATE THE CURRENT CONVICTION IS OBTAINED OR
23 PLEA OF NO CONTEST IS ACCEPTED, A FINE OF NOT MORE THAN \$500,
24 TWO POINTS AND SUSPENSION OF THE OFFENDER'S DRIVER'S LICENSE
25 FOR A PERIOD OF 60 DAYS SHALL BE IMPOSED.

26 (E) WARNING PERIOD.--FOR THE FIRST 12 MONTHS AFTER THE
27 EFFECTIVE DATE OF THIS SUBSECTION, A DRIVER WHO VIOLATES
28 SUBSECTION (A) MAY ONLY BE ISSUED A WRITTEN WARNING FOR A
29 VIOLATION.

30 (F) LAW ENFORCEMENT EDUCATION.--THE DEPARTMENT, IN

1 CONSULTATION WITH THE PENNSYLVANIA STATE POLICE, SHALL DEVELOP
2 AND ELECTRONICALLY DISTRIBUTE EDUCATION MATERIALS FOR LAW
3 ENFORCEMENT ON HOW TO EFFECTIVELY DETECT DISTRACTED DRIVERS,
4 REGARDLESS OF AGE, SEX, RACE OR ETHNICITY, WHO VIOLATE THIS
5 SECTION.

6 (G) PROHIBITION ON SIMILAR CITATIONS.--A PERSON MAY NOT BE
7 CHARGED WITH A VIOLATION OF SECTION 3316.1 (RELATING TO
8 PROHIBITING USE OF INTERACTIVE MOBILE DEVICE) CONCURRENTLY WITH
9 A VIOLATION OF SUBSECTION (A) FOR AN OFFENSE COMMITTED AT THE
10 SAME TIME AND PLACE.

11 (H) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
12 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
13 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

14 "DRIVING." OPERATING A MOTOR VEHICLE ON A HIGHWAY, INCLUDING
15 WHILE THE MOTOR VEHICLE IS TEMPORARILY STATIONARY BECAUSE OF
16 TRAFFIC, A TRAFFIC CONTROL DEVICE OR OTHER MOMENTARY DELAY. THE
17 TERM DOES NOT INCLUDE OPERATING A MOTOR VEHICLE IF THE DRIVER
18 MOVED THE VEHICLE TO THE SIDE OF OR OFF OF A HIGHWAY AND HALTED
19 IN A LOCATION WHERE THE VEHICLE CAN SAFELY REMAIN STATIONARY.

20 "ELECTRONIC DEVICE." THE TERM INCLUDES, BUT IS NOT LIMITED
21 TO, A CELLULAR TELEPHONE, PERSONAL DIGITAL ASSISTANT, PAGER,
22 COMPUTER OR ANY OTHER DEVICE USED TO INPUT, WRITE, SEND, RECEIVE
23 OR READ TEXT OR IMAGES.

24 "TEXTING." MANUALLY ENTERING ALPHANUMERIC TEXT INTO OR
25 READING TEXT FROM AN ELECTRONIC DEVICE. THE FOLLOWING SHALL
26 APPLY:

27 (1) THE TERM INCLUDES, BUT IS NOT LIMITED TO, SHORT
28 MESSAGE SERVICE, EMAILING, INSTANT MESSAGING, A COMMAND OR
29 REQUEST TO ACCESS AN INTERNET WEB PAGE, PRESSING MORE THAN A
30 SINGLE BUTTON TO INITIATE OR TERMINATE A VOICE COMMUNICATION

1 USING A MOBILE TELEPHONE OR ENGAGING IN ANY OTHER FORM OF
2 ELECTRONIC TEXT RETRIEVAL OR ENTRY, FOR PRESENT OR FUTURE
3 COMMUNICATION.

4 (2) THE TERM DOES NOT INCLUDE:

5 (I) INPUTTING, SELECTING OR READING INFORMATION ON A
6 GLOBAL POSITIONING SYSTEM OR NAVIGATION SYSTEM.

7 (II) PRESSING A SINGLE BUTTON TO INITIATE OR
8 TERMINATE A VOICE COMMUNICATION USING A MOBILE TELEPHONE.

9 (III) USING A DEVICE CAPABLE OF PERFORMING MULTIPLE
10 FUNCTIONS, INCLUDING FLEET MANAGEMENT SYSTEMS,
11 DISPATCHING DEVICES, CITIZENS BAND RADIOS AND MUSIC
12 PLAYERS, FOR A PURPOSE THAT IS NOT PROHIBITED BY THIS
13 SECTION.

14 Section 5. Title 75 is amended by adding a section to read:

15 § 3316.1. Prohibiting use of interactive wireless <--

16 communications devices MOBILE DEVICE. <--

17 (a) Prohibition. No driver shall operate a motor vehicle on <--
18 a highway or trafficway in this Commonwealth while physically
19 holding or supporting with their body an interactive wireless
20 communications device, unless the motor vehicle is parked on the
21 side or shoulder of a highway or trafficway in this Commonwealth
22 where the motor vehicle is safely able to remain stationary.

23 (b) Seizure. The provisions of this section shall not be
24 construed as authorizing the seizure or forfeiture of an
25 interactive wireless communications device unless otherwise
26 provided by law.

27 (c) Penalties.

28 (1) Except as provided for in paragraph (2) and
29 subsection (f), a person who violates this section commits a
30 summary offense. The following shall apply:

1 ~~(i) For a first conviction with no conviction of and~~
2 (A) MOTOR VEHICLE.--EXCEPT AS PROVIDED UNDER SUBSECTION (C), <--
3 A DRIVER MAY NOT USE AN INTERACTIVE MOBILE DEVICE WHILE DRIVING
4 A MOTOR VEHICLE.

5 (B) EMPLOYER.--EXCEPT AS PROVIDED UNDER SUBSECTION (C), AN
6 EMPLOYER MAY NOT PERMIT OR REQUIRE A DRIVER OF THE EMPLOYER TO
7 USE AN INTERACTIVE MOBILE DEVICE WHILE DRIVING A MOTOR VEHICLE.

8 (C) EMERGENCY USE EXCEPTION.--USING AN INTERACTIVE MOBILE
9 DEVICE SHALL BE PERMISSIBLE BY A DRIVER OF A MOTOR VEHICLE IF
10 NECESSARY TO COMMUNICATE WITH A LAW ENFORCEMENT OFFICIAL OR
11 OTHER EMERGENCY SERVICES TO PREVENT INJURY TO PERSONS OR
12 PROPERTY.

13 (D) PENALTIES.--EXCEPT AS PROVIDED FOR IN SUBSECTION (G), A
14 PERSON WHO VIOLATES THIS SECTION COMMITS A SUMMARY OFFENSE. THE
15 FOLLOWING SHALL APPLY:

16 (1) FOR A FIRST CONVICTION WITH NO CONVICTION OF AND no
17 plea of no contest accepted to a charge of violating this
18 section within the previous ~~24-month~~ 60-MONTH period, as <--
19 measured from the dates any previous convictions were
20 obtained or pleas of no contest were accepted to the date the
21 current conviction is obtained or plea of no contest is
22 accepted, a fine of not more than \$150 shall be imposed.

23 ~~(ii) For a second conviction within a 24 month <--~~
24 (2) FOR A SECOND CONVICTION WITHIN A 60-MONTH period of <--
25 time, as measured from the dates any previous convictions
26 were obtained or pleas of no contest were accepted to the
27 date the current conviction is obtained or plea of no contest
28 is accepted, a fine of not more than \$250. and two points <--
29 shall be imposed.

30 ~~(iii) For a third or subsequent conviction within a <--~~

~~24 month~~

~~(3) FOR A THIRD OR SUBSEQUENT CONVICTION WITHIN A 60- <--
MONTH period of time, as measured from the dates any previous
convictions were obtained or pleas of no contest were
accepted to the date the current conviction is obtained or
plea of no contest is accepted, a fine of not more than \$500,
three TWO points and, at the court's discretion, suspension <--
of the offender's driver's license for a period of 60 days
shall be imposed.~~

~~(2) A person appearing before a court for a first charge <--
of violating this section who produces in court a device or
proof of purchase of the device that would allow the person
to comply with this section in the future shall not be guilty
of the offense. The court shall require the person to affirm
that they have not previously utilized the privilege under
this section.~~

~~(3) A person convicted of a violation of any law or
ordinance pertaining to speed when the offender was also
distracted, as described in this section, shall have points
imposed as follows:~~

~~(i) When the speed exceeds the lawful speed limit by
30 miles per hour or more, four points.~~

~~(ii) When the speed exceeds the lawful speed limit
of 55 miles per hour or more by more than 10 miles per
hour, three points.~~

~~(iii) When the speed exceeds the lawful speed limit
of less than 55 miles per hour by more than five miles
per hour, three points.~~

~~(4) A person who causes physical harm to property as the
proximate result of committing a violation of this section~~

1 ~~commits a misdemeanor of the first degree. In addition to any~~
2 ~~other authorized penalty, the court shall impose upon the~~
3 ~~offender a fine of not less than \$500 and not more than~~
4 ~~\$1,000 and three points.~~

5 ~~(5) A person who causes serious physical harm to another~~
6 ~~person as the proximate result of committing a violation of~~
7 ~~this section commits aggravated assault by vehicle and shall~~
8 ~~be subject to the sentencing provisions under section 3732.1~~
9 ~~(relating to aggravated assault by vehicle).~~

10 ~~(6) A person who causes the death of another person as~~
11 ~~the proximate result of committing a violation of this~~
12 ~~section commits homicide by vehicle and shall be subject to~~
13 ~~the sentencing provisions under section 3732 (relating to~~
14 ~~homicide by vehicle).~~

15 ~~(d) (E) Preemption of local ordinances.--In accordance with~~ <--
16 ~~section 6101 (relating to applicability and uniformity of~~
17 ~~title), this section supersedes and preempts all ordinances of~~
18 ~~any municipality with regard to the use of an interactive~~ <--
19 ~~wireless communications device INTERACTIVE MOBILE DEVICE by a~~ <--
20 ~~driver of a motor vehicle.~~

21 ~~(e) (F) Law enforcement education.--The department, in~~ <--
22 ~~consultation with the Pennsylvania State Police, shall develop~~
23 ~~and electronically distribute education materials for law~~
24 ~~enforcement on how to effectively detect distracted drivers,~~
25 ~~regardless of age, sex, race or ethnicity, who violate this~~
26 ~~section.~~

27 ~~(f) (G) Warning period.--For the first six 12 months after~~ <--
28 ~~the effective date of this subsection, a driver who violates~~
29 ~~subsection (a) may only be issued a written warning for a~~
30 ~~violation.~~

1 ~~(g) (H) Prohibition on similar citations.--No person may A~~ <--
2 ~~PERSON MAY NOT be charged with a violation of section 3316~~
3 ~~(relating to prohibiting text-based communications) concurrently~~
4 ~~with a violation of subsection (a) for an offense committed at~~
5 ~~the same time and place.~~

6 ~~(h) Reporting.~~ <--

7 ~~(1) When a law enforcement officer employed by a police~~
8 ~~department with at least 100 officers issues a citation for a~~
9 ~~violation of this section, the law enforcement officer must~~
10 ~~record the following:~~

11 ~~(i) the reason for the stop;~~

12 ~~(ii) the date, time and street address or~~
13 ~~approximate location of the stop;~~

14 ~~(iii) the perceived race and ethnicity of the driver~~
15 ~~subject to the stop;~~

16 ~~(iv) the perceived gender and age of the driver~~
17 ~~subject to the stop;~~

18 ~~(v) whether a search was initiated, including a~~
19 ~~search of a vehicle or the vehicle operator and, if a~~
20 ~~search was initiated, whether the search was conducted~~
21 ~~with the consent of the operator;~~

22 ~~(vi) the results of any search;~~

23 ~~(vii) whether the stop or subsequent search resulted~~
24 ~~in a warning, citation, arrest or other action; and~~

25 ~~(viii) the badge number of the police officer~~
26 ~~initiating the stop.~~

27 ~~(2) All law enforcement agencies with at least 100~~
28 ~~officers must maintain and report the information under~~
29 ~~paragraph (1) to the Administrative Office of Pennsylvania~~
30 ~~Courts in a form and manner determined by the Administrative~~

2 (I) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <--
3 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
4 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

5 "DRIVING." OPERATING A MOTOR VEHICLE ON A HIGHWAY, INCLUDING
6 WHILE THE MOTOR VEHICLE IS TEMPORARILY STATIONARY BECAUSE OF
7 TRAFFIC, A TRAFFIC CONTROL DEVICE OR OTHER MOMENTARY DELAY. THE
8 TERM DOES NOT INCLUDE OPERATING A MOTOR VEHICLE IF THE DRIVER
9 MOVED THE VEHICLE TO THE SIDE OF OR OFF OF A HIGHWAY AND HALTED
10 IN A LOCATION WHERE THE VEHICLE CAN SAFELY REMAIN STATIONARY.

11 "USE AN INTERACTIVE MOBILE DEVICE." AS FOLLOWS:

12 (1) USING AT LEAST ONE HAND TO HOLD, OR SUPPORTING WITH
13 ANOTHER PART OF THE BODY, AN INTERACTIVE MOBILE DEVICE TO
14 CONDUCT A VOICE COMMUNICATION.

15 (2) DIALING OR ANSWERING AN INTERACTIVE MOBILE DEVICE BY
16 PRESSING MORE THAN A SINGLE BUTTON.

17 (3) REACHING FOR AN INTERACTIVE MOBILE DEVICE IN A
18 MANNER THAT REQUIRES A DRIVER TO MANEUVER SO THAT THE DRIVER
19 IS NO LONGER IN A SEATED DRIVING POSITION, RESTRAINED BY A
20 SEAT BELT THAT IS INSTALLED IN ACCORDANCE WITH 49 CFR 393.93
21 (RELATING TO SEATS, SEAT BELT ASSEMBLIES, AND SEAT BELT
22 ASSEMBLY ANCHORAGES) AND ADJUSTED IN ACCORDANCE WITH THE
23 VEHICLE MANUFACTURER'S INSTRUCTIONS.

24 Section 6. Sections 3732(b)(1.1) and (3) and 3732.1(b)(2)
25 and (4) of Title 75 are amended to read:

26 § 3732. Homicide by vehicle.

27 * * *

28 (b) Sentencing.--

29 * * *

30 (1.1) In addition to any other penalty provided by law,

1 a person convicted of a violation of subsection (a) who is
2 also convicted of a violation of section 1501 (relating to
3 drivers required to be licensed), 1543 (relating to driving
4 while operating privilege is suspended or revoked), 3316
5 (relating to prohibiting text-based communications), 3316.1
6 (relating to prohibiting use of interactive ~~wireless~~ <--
7 communications devices MOBILE DEVICE), 3325 (relating to duty <--
8 of driver on approach of emergency vehicle) or 3327 (relating
9 to duty of driver in emergency response areas and in relation
10 to disabled vehicles) may be sentenced to an additional term
11 not to exceed five years' confinement.

12 * * *

13 (3) The Pennsylvania Commission on Sentencing, pursuant
14 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
15 sentencing), shall provide for a sentencing enhancement for
16 an offense under this section when the violation occurred in
17 an active work zone or the individual was also convicted of a
18 violation of section 1501, 1543, 3316, 3316.1, 3325 or 3327.
19 § 3732.1. Aggravated assault by vehicle.

20 * * *

21 (b) Sentencing.--

22 * * *

23 (2) In addition to any other penalty provided by law, a
24 person convicted of a violation of subsection (a) who is also
25 convicted of a violation of section 1501 (relating to drivers
26 required to be licensed), 1543 (relating to driving while
27 operating privilege is suspended or revoked), 3316 (relating
28 to prohibiting text-based communications), 3316.1 (relating
29 to prohibiting use of interactive ~~wireless communications~~ <--
30 devices MOBILE DEVICE), 3325 (relating to duty of driver on <--

1 approach of emergency vehicle) or 3327 (relating to duty of
2 driver in emergency response areas and in relation to
3 disabled vehicles) may be sentenced to an additional term not
4 to exceed two years' confinement.

5 * * *

6 (4) The Pennsylvania Commission on Sentencing, under 42
7 Pa.C.S. § 2154 (relating to adoption of guidelines for
8 sentencing), shall provide for a sentencing enhancement for
9 an offense under this section when the violation occurred in
10 an active work zone or the individual was also convicted of a
11 violation of section 1501, 1543, 3316, 3316.1, 3325 or 3327.
12 Section 7. This act shall take effect in ~~180 days~~ 12 MONTHS. <--