

No. 1982-289

AN ACT

HB 2533

Amending Titles 75 (Vehicles) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further regulating driving under the influence of alcohol or controlled substance, regulating chemical tests and refusal to submit, driving while operating privilege is suspended or revoked, defining presumptions of guilt, establishing required programs for offenders, regulating the disposition of Accelerated Rehabilitative Dispositions, establishing the offense of homicide by vehicle while driving under the influence, regulating emergency room reports, granting reciprocal suspension or revocation enforcement agreements, restricting consumption of alcohol in a vehicle in operation, increasing penalties and further providing for the disposition of certain fines and penalties.

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

Section 1. Section 102 of Title 75, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a definition to read:

§ 102. Definitions.

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

* * *

“Chemical test or testing.” Analysis performed on a biological material, including but not limited to breath, blood or urine, to determine the identity or concentration or both of particular constituents such as alcohol or controlled substances. Test procedures may rely on one or more physical or chemical properties of the constituent and utilize instrumental or chemical analysis techniques to accomplish the determination.

* * *

Section 2. Section 1532(a)(2) and (b) of Title 75 is amended to read:
§ 1532. Revocation or suspension of operating privilege.

(a) Revocation.—The department shall revoke the operating privilege of any driver for one year upon receiving a certified record of the driver's conviction of any of the following offenses:

* * *

(2) Any [subsequent] violation of section [3731 (relating to driving under influence of alcohol or controlled substance) within three years of a prior violation] 3735 (relating to homicide by vehicle while driving under influence).

* * *

(b) Suspension.—

(1) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of any offense under the following provisions:

Section 3367 (relating to racing on highways).

[Section 3731 (relating to driving under influence of alcohol or controlled substance).]

Section 3733 (relating to fleeing or attempting to elude police officer).

Section 3734 (relating to driving without lights to avoid identification or arrest).

Section 3743 (relating to accidents involving damage to attended vehicle or property).

(2) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of a subsequent offense under the following provisions:

Section 1501(a) (relating to drivers required to be licensed).

Section 1543 (relating to driving while operating privilege is suspended or revoked).

(3) The department shall suspend the operating privilege of any driver for 12 months upon receiving a certified record of the driver's conviction of section 3731 (relating to driving under influence of alcohol or controlled substance) or an adjudication of delinquency based on section 3731.

[(3)] (4) This subsection does not effect an additional period of revocation of the operating privileges of a driver who receives an additional period of revocation for a second or subsequent violation of section 1543.

Section 3. Section 1534 of Title 75 is amended to read:

§ 1534. Notice of acceptance of Accelerated Rehabilitative Disposition.

[If] (a) General rule.—*Except as provided in subsection (b), if a person is arrested for any offense enumerated in section 1532 (relating to revocation or suspension of operating privilege) and is offered and accepts Accelerated Rehabilitative Disposition under general rules, the court shall promptly notify the department.*

(b) Exception.—*If a person is arrested for any offense enumerated in section 3731 (relating to driving under influence of alcohol or controlled substance) and is offered and accepts Accelerated Rehabilitative Disposition under general rules, the court shall promptly notify the department. The department shall maintain a record of the acceptance of Accelerated Rehabilitative Disposition for a period of seven years from the date of notification. This record shall not be expunged by order of court.*

Section 4. Section 1543 of Title 75 is amended to read:

§ 1543. Driving while operating privilege is suspended or revoked.

(a) Offense defined.—**[Any]** *Except as provided in subsection (b), any person who drives a motor vehicle on any highway or trafficway of*

this Commonwealth at a time when [the] *their* operating privilege is suspended, revoked or recalled is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$200.

(b) Certain offenses.—Any person who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when their operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) or because of a violation of section 1547(b)(1) (relating to suspension for refusal) or 3731 shall, upon conviction, be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of not less than 90 days.

[(b)] (c) Extending existing suspension or revocation.—The department, upon receiving a certified record of the conviction of any person under this section upon a charge of driving a vehicle while the operating privilege was suspended, shall revoke such privilege for an additional period of six months. If the conviction was upon a charge of driving while the operating privilege was revoked, the department shall revoke the operating privilege for an additional period of one year.

Section 5. Section 1547 of Title 75 is amended to read:

§ 1547. Chemical **[test] testing** to determine amount of alcohol *or controlled substance*.

(a) General rule.—Any person who drives, operates or is in actual physical control of the movement of a motor vehicle in this Commonwealth shall be deemed to have given consent to [a chemical test] one or more chemical tests of breath [or], blood or urine for the purpose of determining the alcoholic content of blood or the presence of a controlled substance if a police officer [shall have] has reasonable grounds to believe the person to have been driving, operating or in actual physical control of the movement of a motor vehicle [while under the influence of alcohol. The test shall be administered by qualified personnel and with equipment approved by the department. Qualified personnel means a physician or a technician acting under the physician's direction or a police officer who has fulfilled the training requirements in the use of such equipment in a training program approved by the department.]:

(1) while under the influence of alcohol or a controlled substance or both; or

(2) which was involved in an accident in which the operator or passenger of any vehicle involved or a pedestrian required treatment at a medical facility or was killed.

(b) Suspension for refusal.—

(1) If any person placed under arrest for [driving under the influence of alcohol] a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) is requested to submit to [a chemical test] chemical testing and refuses to do so, the [test] testing shall not be [given] conducted but upon notice by the police officer, the department shall[:

(i) suspend the operating privilege of the person for a period of ~~six~~ 12 months; or

(ii) revoke the operating privilege of the person for a period of one year for a second or subsequent refusal within a period of three years].

(2) It shall be the duty of the police officer to inform the person that the person's operating privilege will be suspended [or revoked] upon refusal to submit to [a chemical test] *chemical testing*.

(3) Any person whose operating privilege is suspended under the provisions of this section shall have the same right of appeal as provided for in cases of suspension [or revocation] for other reasons.

(c) Test results admissible in evidence.—In any summary proceeding or criminal proceeding in which the defendant is charged with ~~driving a motor vehicle while under the influence of alcohol~~ *a violation of section 3731 or any other violation of this title arising out of the same action*, the amount of alcohol *or controlled substance* in the defendant's blood, as shown by [a chemical analysis of his breath or blood, which analysis was conducted with equipment of a type approved by the Department of Health and operated by qualified personnel] *chemical testing of the person's breath, blood or urine, which tests were conducted by qualified persons using approved equipment*, shall be admissible in evidence.

(1) Chemical tests of breath shall be performed on devices approved by the Department of Health using procedures prescribed jointly by regulations of the Departments of Health and Transportation. Devices shall have been calibrated and tested for accuracy within a period of time and in a manner specified by regulations of the Departments of Health and Transportation. For purposes of breath testing, a qualified person means a person who has fulfilled the training requirement in the use of the equipment in a training program approved by the Departments of Health and Transportation. A certificate or log showing that a device was calibrated and tested for accuracy and that the device was accurate shall be presumptive evidence of those facts in every proceeding in which a violation of this title is charged.

(2) Chemical tests of blood or urine shall be performed by a clinical laboratory licensed and approved by the Department of Health for this purpose using procedures and equipment prescribed by the Department of Health. For purposes of blood and urine testing, qualified person means an individual who is authorized to perform those chemical tests under the act of September 26, 1951 (P.L.1539, No.389), known as "The Clinical Laboratory Act."

(d) Presumptions from amount of alcohol.—If chemical [analysis] *testing* of a person's breath [or], blood *or urine* shows:

(1) That the amount of alcohol by weight in the blood of the person tested is 0.05% or less, it shall be presumed that the person tested was not under influence of alcohol and the person shall not be

charged with any violation under section 3731(a)(1) *or* (4) (relating to driving under influence of alcohol or controlled substance), or if the person was so charged prior to the test, the charge shall be void ab initio. *This fact shall not give rise to any presumption concerning a violation of section 3731(a)(2) or (3).*

(2) That the amount of alcohol by weight in the blood of the person tested is in excess of 0.05% but less than 0.10%, this fact shall not give rise to any presumption that the person tested was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining whether the person was or was not under the influence of alcohol.

(3) That the amount of alcohol by weight in the blood of the person tested is 0.10% or more, **[it shall be presumed that the defendant was under the influence of alcohol]** *this fact may be introduced into evidence if the person is charged with violating section 3731.*

(e) Refusal admissible in evidence.—In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section 3731 or any other violation of this title arising out of the same action, the fact that the defendant refused to submit to chemical testing as required by subsection (a) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence but it may be considered along with other factors concerning the charge.

[(e)] (f) Other evidence admissible.—Subsections (a) through **[(d)] (i)** shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of alcohol.

[(f)] (g) Test results available to defendant.—Upon the request of the person tested, the results of any chemical test shall be made available to him or his attorney.

[(g)] Blood test in lieu of breath test.—If for any reason a person is physically unable to supply enough breath to complete a chemical test, a physician or nurse or a technician acting under a physician's direction may withdraw blood for the purpose of determining its alcoholic content. The chemical analysis of the blood taken under these circumstances shall be admissible in evidence in the same manner as are the results of the breath chemical test. The operating privilege of any person who refuses to allow a blood test under the above circumstances shall be suspended pursuant to subsection (b).]

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

(i) Request by driver for test.—Any person involved in an accident or placed under arrest for **[driving a motor vehicle while under the influence**

of alcohol] a violation of section 3731 may request [that he be given] a chemical test of his breath, *blood or urine*. Such requests shall be honored when it is reasonably practicable to do so.

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

(k) *Prearrest breath test authorized.*—A police officer, having reasonable suspicion to believe a person is driving or in actual physical control of the movement of a motor vehicle while under the influence of alcohol, may require that person prior to arrest to submit to a preliminary breath test on a device approved by the Department of Health for this purpose. The sole purpose of this preliminary breath test is to assist the officer in determining whether or not the person should be placed under arrest. The preliminary breath test shall be in addition to any other requirements of this title. No person has any right to expect or demand a preliminary breath test. Refusal to submit to the test shall not be considered for purposes of subsections (b) and (e).

Section 6. Section 1548 of Title 75 is amended to read:

§ 1548. [Post conviction examination for driving under influence.

(a) Presentencing examination.—Before sentencing any person convicted for a second or subsequent offense of violating section 3731 (relating to driving under influence of alcohol or controlled substance), committed within five years of a prior offense of section 3731, the court shall conduct or order an appropriate examination or examinations under the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the "Mental Health and Mental Retardation Act of 1966," to determine whether the person needs or would benefit from treatment for alcohol or drug abuse.

(b) Order for treatment.—After the examination, the court may, upon a hearing and determination that the person is a chronic abuser of alcohol or drugs, order supervised treatment on an outpatient basis, or upon additional determinations that the person is a severely debilitated drug or alcohol abuser who represents a demonstrated and serious public threat and that adequate treatment facilities are available, the court may order him committed for treatment at a facility or institution approved by the Governor's Council on Drug and Alcohol Abuse.

(c) Examination by own physician.—Any person subject to this section may be examined by a physician of his own choosing and the results of the examination shall be considered by the court.

(d) **Review of order.**—Upon motion duly made by the convicted person, an attorney, a relative or an attending physician, the court at any time after an order of commitment shall review the order. After determining the progress of treatment, the court may order its continuation, the person's release or supervised treatment on an outpatient basis.]

Requirements for driving under influence offenders.

(a) **Evaluation using Court Reporting Network.**—*In addition to any other requirements of the court, every person convicted of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and every person offered Accelerated Rehabilitative Disposition as a result of a charge of a violation of section 3731 shall, prior to sentencing or receiving Accelerated Rehabilitative Disposition or other preliminary disposition, be evaluated using Court Reporting Network instruments issued by the department and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the person's involvement with alcohol or controlled substances and to assist the court in determining what sentencing, probation or conditions of Accelerated Rehabilitative Disposition would benefit the person or the public.*

(b) **Attendance at alcohol highway safety school.**—*In addition to any other requirements of the court, every person convicted of a violation of section 3731 and every person placed on Accelerated Rehabilitative Disposition or other preliminary disposition as a result of a charge of a violation of section 3731 shall, as a part of sentencing or as a condition of parole, probation or Accelerated Rehabilitative Disposition, be required to attend and successfully complete an approved alcohol highway safety school established pursuant to section 1549 (relating to establishment of schools).*

(c) **Results of evaluation.**—*Based on the results of evaluation and any additional information and evidence, the court may in addition to any other requirements of the court or this title determine and require, as part of sentencing or condition of parole, probation or Accelerated Rehabilitative Disposition or other preliminary disposition, that the person successfully complete a prescribed program of individual or group intervention or supervised inpatient or outpatient treatment or any combination of these programs or treatments for a period of up to two years in duration. Any program of individual or group intervention or supervised inpatient or outpatient treatment shall be of a type approved by the Department of Health. Based on periodic reviews of the person's progress, the court may alter, modify or shorten or extend the duration of the requirements.*

(d) **Order for alcohol or drug commitment.**—*If after evaluation and further examination and hearing it is determined that the defendant is an alleged chronic abuser of alcohol or controlled substances or that the person is a severely debilitated controlled substance or alcohol abuser who represents a demonstrated and serious threat and that adequate treatment facilities are available, the court may order the person commit-*

ted for treatment at a facility or institution approved by the Department of Health:

(1) Any person subject to this subsection may be examined by an appropriate physician of the person's choosing and the result of the examination shall be considered by the court.

(2) Upon motion duly made by the committed person, an attorney or an attending physician, the court at any time after an order of commitment may review the order. After determining the progress of treatment, the court may order its continuation, the person's release or supervised treatment on an outpatient basis.

(e) Costs.—Costs of any and all requirements applied under this section shall be in addition to any other penalty required or allowed by law and shall be the responsibility of the person upon whom the requirements are placed.

Section 7. Section 1549 of Title 75 is amended to read:

§ 1549. Establishment of schools.

(a) Driver improvement schools.—The department is authorized to establish and maintain driver improvement schools throughout this Commonwealth. The department may approve and conduct an annual review of the course material for the schools. The curriculum to be presented must be uniform throughout this Commonwealth. All instructors shall be properly certified by the department after the completion of a course of instruction approved by the department.

[(b) Course of instruction on alcohol and driving.—The department in conjunction with the Governor's Council on Drug and Alcohol Abuse shall establish and maintain a course of instruction on the problems of alcohol and driving. The curriculum of the course of instruction established by the department and the Governor's Council on Drug and Alcohol Abuse shall be uniform throughout this Commonwealth and shall be reviewed by the department and the Governor's Council on Drug and Alcohol Abuse on an annual basis.]

(b) Alcohol highway safety schools.—Each county, multicounty judicial district or group of counties combined under one program shall, in compliance with regulations of the department and the Department of Health, establish and maintain a course of instruction on the problems of alcohol and driving. These regulations shall include, but not be limited to, a uniform curriculum for the course of instruction and training and certification requirements for instructors.

Section 8. Title 75 is amended by adding sections to read:

§ 1552. *Accelerated Rehabilitative Disposition.*

The court of common pleas in each judicial district and the Municipal Court of Philadelphia shall establish and implement a program for Accelerated Rehabilitative Disposition for persons charged with a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) in accordance with the provisions of this chapter and rules adopted by the Supreme Court.

§ 3715. *Restriction on alcoholic beverages.*

(a) *General rule.*—It is unlawful for any person who is a driver in any vehicle to consume any alcoholic beverage or controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as “The Controlled Substance, Drug, Device and Cosmetic Act,” in the vehicle while the vehicle is in operation on any highway in this Commonwealth.

(b) *Penalty.*—A person who violates any provision of this section is guilty of a summary offense.

Section 9. Section 3731 of Title 75 is amended to read:

§ 3731. Driving under influence of alcohol or controlled substance.

(a) *Offense defined.*—A person shall not drive, *operate or be in actual physical control of the movement of* any vehicle while:

(1) under the influence of alcohol to a degree which renders the person incapable of safe driving;

(2) under the influence of any controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as “The Controlled Substance, Drug, Device and Cosmetic Act,” to a degree which renders the person incapable of safe driving; [or]

(3) under the combined influence of alcohol and [a] any controlled substance to a degree which renders the person incapable of safe driving; or

(4) *the amount of alcohol by weight in the blood of the person is 0.10% or greater.*

(b) *Authorized use not a defense.*—The fact that any person charged with violating this section is or has been legally entitled to use alcohol or controlled substances is not a defense to any charge of violating this section.

(c) *Certain arrests authorized.*—In addition to any other powers of arrest, a police officer is hereby authorized to arrest without a warrant any person who the officer has probable cause to believe has violated the provisions of this section, regardless of whether the alleged violation was committed in the presence of such officer. *This authority to arrest extends to any hospital or other medical treatment facility located beyond the territorial limits of the police officer’s political subdivision at which the person to be arrested is found or was taken or removed to for purposes of emergency treatment examination or evaluation provided there is probable cause to believe that the violation of this section occurred within the police officer’s political subdivision.*

(d) *Certain dispositions prohibited.*—The attorney for the Commonwealth shall not submit a charge brought under this section for *Accelerated Rehabilitative Disposition* if:

(1) *the defendant has been found guilty of or accepted Accelerated Rehabilitative Disposition of a charge brought under this section within seven years of the date of the current offense;*

(2) *the defendant committed any other act in connection with the present offense which, in the judgment of the attorney for the Commonwealth, constitutes a violation of any of the specific offenses enu-*

merated within section 1542 (relating to revocation of habitual offender's license); or

(3) an accident occurred in connection with the events surrounding the current offense and any person, other than the defendant, was killed or seriously injured as a result of the accident.

[(d)](e) Penalty.—

(1) Any person violating any of the provisions of this section is guilty of a misdemeanor of the [third] second degree[.] and the sentencing court shall order the person to pay a fine of not less than \$300 and serve a minimum term of imprisonment of:

(i) Not less than 48 consecutive hours.

(ii) Not less than 30 days if the person has previously been convicted of an offense under this section or of an equivalent offense in this or other jurisdictions within the previous seven years.

(iii) Not less than 90 days if the person has twice previously been convicted of an offense under this section or of an equivalent offense in this or other jurisdictions within the previous seven years.

(iv) Not less than one year if the person has three times previously been convicted of an offense under this section or of an equivalent offense in this or other jurisdictions within the previous seven years.

(2) Acceptance of Accelerated Rehabilitative Disposition or any other form of preliminary disposition of any charge brought under this section shall be considered a first conviction for the purpose of computing whether a subsequent conviction of a violation of this section shall be considered a second, third, fourth or subsequent conviction.

(3) The sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory penalties of this section.

(4) The Commonwealth has the right to appeal directly to the Superior Court any order of court which imposes a sentence for violation of this section which does not meet the requirements of this section. The Superior Court shall remand the case to the sentencing court for imposition of a sentence in accordance with the provisions of this section.

(5) Notwithstanding the provision for direct appeal to the Superior Court, if, in a city of the first class, a person appeals from a judgment of sentence under this section from the municipal court to the common pleas court for a trial de novo, the Commonwealth shall have the right to appeal directly to the Superior Court from the order of the common pleas court if the sentence imposed is in violation of this section. If, in a city of the first class, a person appeals to the court of common pleas after conviction of a violation of this section in the municipal court and thereafter withdraws his appeal to the common pleas court, thereby reinstating the judgment of sentence of the municipal court, the Commonwealth shall have 30 days from the date of the withdrawal to appeal to the Superior Court if the sentence is in violation of this section.

(6) Any person who accepts Accelerated Rehabilitative Disposition of any charge brought under this section shall accept as conditions the imposition of and the judge shall impose in addition to any other conditions all of the following:

(i) A fee to cover the costs referred to in section 1548(e) (relating to costs).

(ii) A mandatory suspension of operating privilege for a period of not less than one month but not more than 12 months.

(iii) A condition that the defendant, as a condition to entering the program, make restitution to any person who incurred determinable financial loss as a result of the defendant's actions which resulted in a charge of violating this section.

(iv) Court supervision for any defendant required to make restitution or submit to counseling or treatment.

(v) Court supervision for a period of not less than six months when the Court Reporting Network indicates that counseling or treatment is not necessary and not less than 12 months when the Court Reporting Network indicates that counseling or treatment is in order.

(7) Accelerated Rehabilitative Disposition or other preliminary disposition of any charge of violating this section may be revoked and the court shall direct the attorney for the Commonwealth to proceed on the charges as prescribed in general rules if the defendant:

(i) is charged with or commits any crime enumerated in Title 18 (relating to crimes and offenses) or in section 1542 within the probationary period;

(ii) fails to make restitution as provided for in this section;

(iii) fails to successfully complete the alcohol highway safety school required by section 1548(b);

(iv) fails to successfully complete any program of counseling or treatment, or both, required as a condition of Accelerated Rehabilitative Disposition; or

(v) violates the terms and conditions of Accelerated Rehabilitative Disposition in any other way.

(8) With the exception of program costs referred to in section 1548(e) or any restitution referred to in this section, any fee or financial condition imposed by a judge as a condition of Accelerated Rehabilitative Disposition or any other preliminary disposition of any charge under this section shall be distributed as provided for in 42 Pa.C.S. §§ 3571 (relating to Commonwealth portion of fines, etc.) and 3573 (relating to municipal corporation portion of fines, etc.).

(f) Preliminary hearing or arraignment.—The presiding judicial officer at the preliminary hearing or preliminary arraignment, relating to any charge of a violation of this section, shall not reduce or modify the original charges.

Section 10. Section 3732 of Title 75 is amended to read:

§ 3732. Homicide by vehicle.

Any person who unintentionally causes the death of another person while engaged in the violation of any law of this Commonwealth or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic *except section 3731 (relating to driving under influence of alcohol or controlled substance)* is guilty of homicide by vehicle, a misdemeanor of the first degree, when the violation is the cause of death.

Section 11. Title 75 is amended by adding sections to read:

§ 3735. *Homicide by vehicle while driving under influence.*

(a) *Offense defined.*—Any person who unintentionally causes the death of another person as the direct result of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section 3731 is guilty of a felony of the third degree when the violation is the cause of death and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than three years.

(b) *Applicability of sentencing guidelines.*—The sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory penalty of this section.

§ 3755. *Reports by emergency room personnel.*

(a) *General rule.*—If, as a result of a motor vehicle accident, the person who drove, operated or was in actual physical control of the movement of any involved motor vehicle requires medical treatment in an emergency room of a hospital and if probable cause exists to believe a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) was involved, the emergency room physician or his designee shall promptly take blood samples from those persons and transmit them within 24 hours for testing to the Department of Health or a clinical laboratory licensed and approved by the Department of Health and specifically designated for this purpose. This section shall be applicable to all injured occupants who were capable of motor vehicle operation if the operator or person in actual physical control of the movement of the motor vehicle cannot be determined. Test results shall be released upon request of the person tested, his attorney, his physician or governmental officials or agencies.

(b) *Immunity from civil liability.*—No physician, nurse or technician or hospital employing such physician, nurse or technician and no other employer of such physician, nurse or technician shall be civilly liable for properly withdrawing blood or obtaining a urine sample and reporting test results to the police pursuant to this section. No physician, nurse or technician or hospital employing such physician, nurse or technician may administratively refuse to perform such tests and provide the results to the police officer except as may be reasonably expected from unusual circumstances that pertain at the time of admission.

Section 12. Section 6146 of Title 75 is amended to read:

§ 6146. Enforcement agreements.

The secretary may enter into agreements relating to enforcement of this title including, but not limited to, agreements to notify any state of violations incurred by residents of that state, *to suspend or revoke the operating privilege of Pennsylvania licensed drivers who are convicted in another state of any offense essentially similar to those enumerated in Subchapter B of Chapter 37 (relating to serious traffic offenses)* and to take measures to assure payment of fines or attendance at hearings by persons charged with *these or other* violations.

Section 13. Section 6323 of Title 75 is amended to read:

§ 6323. Reports by courts.

Subject to any inconsistent procedures and standards relating to reports and transmission of funds prescribed pursuant to Title 42 (relating to judiciary and judicial procedure):

(1) The clerk of any court of this Commonwealth, within ten days after final judgment of conviction or acquittal or other disposition of charges under any of the provisions of this title *including an adjudication of delinquency based on section 3731 (relating to driving under influence of alcohol or controlled substance)*, shall send to the department a record of the judgment of conviction, acquittal or other disposition.

(2) A record of the judgment shall also be forwarded to the department upon conviction or acquittal of a person of a felony in the commission of which the judge determines that a motor vehicle was essentially involved.

(3) The fines and bail forfeited under any of the provisions of this title payable to the Commonwealth under Subchapter E of Chapter 35 of Title 42 (relating to fines, etc.) shall accompany the record sent to the department.

Section 14. Sections 3571(b) and 3573(b) of Title 42 are amended to read:

§ 3571. Commonwealth portion of fines, etc.

* * *

(b) Vehicle offenses.—

(1) All fines forfeited, recognizances and other forfeitures imposed, lost or forfeited in connection with matters arising under Chapter 77 of Title 75 (relating to snowmobiles) shall be payable to the Commonwealth.

(2) [When] *Except as provided in paragraph (4), when* prosecution under any other provision of Title 75 (relating to vehicles) is the result of State Police action, all fines forfeited, recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund. One-half of the revenue shall be paid to municipalities in the same ratio provided in section 4 of the act of June 1, 1956 (P.L.1944, No.655), relating to partial allocation of liquid fuels and fuel use tax proceeds.

(3) **[When] Except as provided in section 3573 (relating to municipal corporation portion of fines, etc.), when prosecution under any other provision of Title 75 is the result of local police action, one-half of all fines forfeited, recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund.**

(4) **When prosecution under 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) is the result of State Police action, 50% of all fines forfeited, recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund, and 50% shall be payable to the county which shall be further divided as follows:**

(i) **Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting alcoholism prevention, education, treatment and research.**

(ii) **Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.**

§ 3573. Municipal corporation portion of fines, etc.

(b) Vehicle offenses.—

(1) When prosecution under the provisions of Title 75 (relating to vehicles) for parking is the result of local police action, all fines forfeited, recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized.

(2) **[When] Except as provided in paragraph (3), when prosecution under any other provision of Title 75 (except Chapter 77 (relating to snowmobiles)) is the result of local police action, one-half of all fines forfeited, recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized.**

(3) **When prosecution under 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) is the result of local police action, 50% of all fines forfeited, recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized and 50% shall be payable to the county which shall be further divided as follows:**

(i) **Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting alcoholism prevention, education, treatment and research.**

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

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Section 15. This act shall take effect in 30 days.

APPROVED—The 15th day of December, A. D. 1982.

DICK THORNBURGH