

No. 1986-24

AN ACT

HB 1073

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the registration of vehicles, for the licensing of drivers, for the depositing of waste from vehicles upon highways, property and waters, for the nonexclusion of insurance benefits for insureds who are under the influence at the time of an accident and for the disposition of certain fines and bail forfeitures; and further providing for speed timing devices.

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

Section 1. Title 75 of the Pennsylvania Consolidated Statutes is amended by adding sections to read:

§ 1317. Acknowledgment of littering provisions.

On every vehicle registration card, the following statement shall be printed immediately above or below the signature of the applicant:

I hereby acknowledge this day that I have received notice of the provisions of section 3709 of the Vehicle Code.

Also printed on the registration card shall be the following:

Section 3709 provides for a fine of up to \$300 for dropping, throwing or depositing, upon any highway, or upon any other public or private property without the consent of the owner thereof or into or on the waters of this Commonwealth from a vehicle, any waste paper, sweepings, ashes, household waste, glass, metal, refuse or rubbish or any dangerous or detrimental substance, or permitting any of the preceding without immediately removing such items or causing their removal.

For any violation of section 3709, I may be subject to a fine of up to \$300 upon conviction, including any violation resulting from the conduct of any other persons operating, in possession of or present within this vehicle with my permission, if I do not with reasonable certainty identify the driver of the vehicle at the time the violation occurred.

§ 1520. Acknowledgment of littering provisions.

On every application for a learner's permit or driver's license, the following statement shall be printed immediately above or below the signature of the applicant:

I hereby acknowledge this day that I have received notice of the provisions of section 3709 of the Vehicle Code.

Also printed on the card shall be the following:

Section 3709 provides for a fine of up to \$300 for dropping, throwing or depositing, upon any highway, or upon any other public or private property without the consent of the owner thereof or into or on the waters of this Commonwealth from a vehicle, any waste paper,

sweepings, ashes, household waste, glass, metal, refuse or rubbish or any dangerous or detrimental substance, or permitting any of the preceding without immediately removing such items or causing their removal.

For any violation of section 3709, I may be subject to a fine of up to \$300 upon conviction, including any violation resulting from the conduct of any other persons present within any vehicle of which I am the driver.

§ 1724. *Certain nonexcludable conditions.*

(a) *General rule.—Insurance benefits may not be denied solely because the driver of the insured motor vehicle is determined to be under the influence of drugs or intoxicating beverages at the time of the accident for which benefits are sought.*

(b) *Contract exclusions.—Provisions of an insurance policy which exclude insurance benefits if the insured causes a vehicular accident while under the influence of drugs or intoxicating beverages at the time of the accident are void.*

Section 2. Section 3368(c) and (d) of Title 75 are amended to read:

§ 3368. Speed timing devices.

* * *

(c) *Mechanical, electrical and electronic devices authorized.—*

(1) *Except as otherwise provided in this section, the rate of speed of any vehicle may be timed on any highway by a police officer using a mechanical or electrical speed timing device.*

(2) *[Electronic] Except as otherwise provided in paragraph (3), electronic devices such as radio-microwave devices (commonly referred to as electronic speed meters or radar) may be used only by members of the Pennsylvania State Police. [No person may be convicted upon evidence obtained through the use of such devices unless the speed recorded is six or more miles per hour in excess of the legal speed limit.]*

(3) *Electronic devices which calculate speed by measuring elapsed time between measured road surface points by using two sensors and devices which measure and calculate the average speed of a vehicle between any two points may be used by any police officer.*

(4) *No person may be convicted upon evidence obtained through the use of devices authorized by paragraphs (2) and (3) unless the speed recorded is six or more miles per hour in excess of the legal speed limit. Furthermore, no person may be convicted upon evidence obtained through the use of devices authorized by paragraph (3) in an area where the legal speed limit is less than 55 miles per hour if the speed recorded is less than ten miles per hour in excess of the legal speed limit. This paragraph shall not apply to evidence obtained through the use of devices authorized by paragraph (3) within a school zone.*

(d) *[Approval] Classification, approval and testing of mechanical, electrical and electronic devices.—The department may, by regulation, classify specific devices as being mechanical, electrical or electronic. All mechanical, electrical or electronic devices shall be of a type approved by the department,*

which shall appoint stations for calibrating and testing the devices and may prescribe regulations as to the manner in which calibrations and tests shall be made. *The certification and calibration of electronic devices under subsection (c)(3) shall also include the certification and calibration of all equipment, timing strips and other devices which are actually used with the particular electronic device being certified and calibrated.* The devices shall have been tested for accuracy within a period of 60 days prior to the alleged violation. A certificate from the station showing that the calibration and test were made within the required period, and that the device was accurate, shall be competent and prima facie evidence of those facts in every proceeding in which a violation of this title is charged.

* * *

Section 3. The heading and section 3709(a), (b) and (d) of Title 75 are amended and the section is amended by adding a subsection to read:

§ 3709. Depositing waste and other material on highway, *property or waters.*

(a) General rule.—No person shall throw or deposit, upon any highway, *or upon any other public or private property without the consent of the owner thereof or into or on the waters of this Commonwealth from a vehicle,* any waste paper, sweepings, ashes, household waste, glass, metal, refuse or rubbish, or any dangerous or detrimental substance.

(b) Removal of deposited material.—

(1) Any person who drops, or permits to be dropped or thrown, upon any highway, *or upon any other public or private property without the consent of the owner thereof or into or on any waters of this Commonwealth from a vehicle,* any waste paper, sweepings, ashes, household waste, glass, metal, refuse or rubbish, or any dangerous or detrimental substance shall immediately remove the same or cause it to be removed.

(2) *For the purposes of this subsection a "person who permits to be dropped or thrown" from a vehicle any of the items described in paragraph (1) shall include the driver of the vehicle and the registrant of any vehicle registered in this Commonwealth from which any of the items are dropped or thrown, either by the registrant or any person operating, in possession of or present within the vehicle with the permission of the registrant, regardless of the registrant's intent or lack of knowledge with respect to the disposal of such items in violation of this section where the registrant of the vehicle does not, with reasonable certainty, identify the driver of the vehicle at the time the violation occurred.*

* * *

(d) Penalty.—Any person violating any of the provisions of subsection (a) or (b) is guilty of a summary offense and shall, upon conviction, be sentenced [to pay a fine of not more than \$300.] *to either or both of the following:*

(1) *To pay a fine of not more than \$300.*

(2) *Except where infirmity or age or other circumstance would create a hardship, be directed by the court in which conviction is obtained to pick up and remove litter from public property or private property, or both,*

with prior permission of the legal owner. If the person has no prior record of convictions for violation of this section, he may be sentenced to pick up and remove litter for not less than eight hours nor more than 16 hours. Upon a second conviction, the person may be sentenced to pick up and remove litter for not less than 16 hours and not more than 32 hours. Upon third and subsequent convictions, he may be sentenced to pick up and remove litter for not less than 40 hours and not more than 80 hours. The court shall schedule the time to be spent on such activities in such a manner that it does not interfere with the person's employment and does not interfere substantially with the person's family responsibilities or religious obligations.

(e) Disposition of fines, etc.—Revenue from the collection of fines and bail forfeitures in the course of enforcement of this section shall be distributed in the following manner:

(1) One-half shall be distributed to the agency or local government unit which brought the action to enforce this section and may be used to defray the expenses of enforcing this section, at the option of the agency or local government unit.

(2) One-half shall be allocated to the department for Statewide public education and awareness programs to promote litter control and recycling and awareness of the provisions of this section.

Section 4. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 5. (a) Section 2 of this act, amending section 3368, shall take effect immediately.

(b) The remainder of this act shall take effect on July 1 next following 60 days from the date of final enactment.

APPROVED—The 27th day of March, A. D. 1986.

DICK THORNBURGH