

No. 1994-154

AN ACT

SB 313

Amending Titles 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for distribution of fines, etc. and for forfeitures; regulating pursuit of vehicles by police; and further providing for the disposition of fines imposed for violations of Title 75 involving snowmobiles.

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

Section 1. Sections 3571(a), (b) and (e), 3572, 3573 and 6801(h) and (i) of Title 42 of the Pennsylvania Consolidated Statutes are amended to read: § 3571. Commonwealth portion of fines, etc.

(a) General rule.—Except as otherwise provided by statute, the Commonwealth shall be entitled to receive all fines, forfeited[,] recognizances and other forfeitures imposed, lost or forfeited, fees and costs which by law have heretofore been paid or credited to, or which by statute are payable or creditable to, the Commonwealth. Fees and charges in an appellate court fixed pursuant to section 1725 (relating to establishment of fees and charges) shall be paid into the State Treasury. Unless otherwise expressly provided by the General Appropriation Act, such fees and charges shall be credited to the appropriation of the appellate court in which they were received.

(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 *unless otherwise provided in Chapter 77 of Title 75* be payable to the Commonwealth.

(2) 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) 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 *drug abuse and* alcoholism prevention, education, treatment and research. *Programs under this subparagraph include Project DARE (Drug and Alcohol Resistance Education).*

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

* * *

(e) Other offenses.—Fines, forfeited[,] recognizances and other forfeitures imposed, lost or forfeited under the following provisions of law shall be payable to the Commonwealth:

18 Pa.C.S. § 7361 (relating to worldly employment or business).

Act of December 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act of 1965, when the proceeding is instituted by an agent or employee of the Department of Agriculture.

Act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act.

§ 3572. County portion of fines, etc.

Except as otherwise provided in this subchapter, all fines, forfeited[,] recognizances and other forfeitures imposed, lost or forfeited and fees and costs collected in the court of common pleas, or community court established for a judicial district embracing a county, or in a magisterial district within the county, or in the Philadelphia Municipal Court, shall be payable to such county.

§ 3573. Municipal corporation portion of fines, etc.

(a) General rule.—Except as otherwise provided by this subchapter, all fines, forfeited[,] recognizances and other forfeitures imposed, lost or forfeited for violation of any ordinance of any municipal corporation, or which under any other statute are to be paid to any specified municipal corporation, shall be payable to such municipal corporation.

(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) 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 *drug abuse and* alcoholism prevention, education, treatment and research. *Programs under this subparagraph include Project DARE (Drug and Alcohol Resistance Education).*

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

(c) Summary offenses.—Fines, forfeited[,] recognizances and other forfeitures imposed, lost or forfeited under the following provisions of law shall, when any such offense is committed in a municipal corporation, be payable to such municipal corporation:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 2709 (relating to harassment).

Section 3304 (relating to criminal mischief).

Section 3503 (relating to criminal trespass).

Section 3929 (relating to retail theft).

Section 4105 (relating to bad checks).

Section 5503 (relating to disorderly conduct).

Section 5505 (relating to public drunkenness).

Section 5511 (relating to cruelty to animals).

Section 6308 (relating to purchase, consumption, possession or transportation of intoxicating beverages).

Section 6501 (relating to scattering rubbish).

(2) Section 13, act of January 24, 1966 (1965 P.L.1535, No.537), known as the ["Pennsylvania Sewage Facilities Act.["]

(d) Pittsburgh.—Except as otherwise provided in this subchapter, all fines, forfeited[,] recognizances and other forfeitures imposed, lost or forfeited in the Pittsburgh Magistrates Court or the Pittsburgh Traffic Court shall be payable to the City of Pittsburgh.

§ 6801. Loss of property rights to Commonwealth.

* * *

(h) Authorization to utilize property.—The district attorney and the Attorney General shall utilize forfeited property or proceeds thereof for the purpose of enforcing the provisions of The Controlled Substance, Drug, Device and Cosmetic Act. *In appropriate cases, the district attorney and the Attorney General may designate proceeds from forfeited property to be utilized by community-based drug and crime-fighting programs and for relocation and protection of witnesses in criminal cases.*

(i) Annual audit of forfeited property.—It shall be the responsibility of every county in this Commonwealth to provide, through the controller, board of auditors or other appropriate auditor *and the district attorney*, an annual audit of all forfeited property and proceeds obtained under this section. The audit shall not be made public but shall be submitted to the Office of Attorney General. The county shall report all forfeited property and proceeds obtained under this section and the disposition thereof to the Attorney General by September 30 of each year.

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Section 2. Section 1508 of Title 75 is amended by adding a subsection to read:

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

* * *

(d) *Police pursuit awareness.—The driver's manual shall include a section summarizing the risks involved in fleeing or attempting to elude a police officer. The section shall also summarize the related penalties for a violation of section 3733 (relating to fleeing or attempting to elude police officer).*

Section 3. Sections 1532(b)(1) and (3) and 3733 of Title 75 are amended to read:

§ 1532. Revocation or suspension of operating privilege.

* * *

(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 or an adjudication of delinquency based on any offense under the following provisions:

Section 3367 (relating to racing on highways).

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

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

Section 3736 (relating to reckless driving).

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

* * *

(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* 3733 (*relating to fleeing or attempting to elude police officer*) or an adjudication of delinquency based on section 3731 *or* 3733. The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section 3731 *or* 3733.

* * *

§ 3733. Fleeing or attempting to elude police officer.

(a) Offense defined.—Any driver of a motor vehicle who willfully fails or refuses to bring his vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police [vehicle] *officer*, when given visual or audible signal to bring the vehicle to a stop, [is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$200.] *commits a misdemeanor of the second degree. Any driver upon conviction shall pay an additional fine of \$500. This fine shall be in addition to and not in lieu of all other fines, court expenses, jail sentences or penalties.*

(a.1) *Disposition of fines, etc.—The fines imposed and collected under subsection (a) shall not be subject to 42 Pa.C.S. § 3733 (relating to deposits into account). The fines imposed and collected under subsection (a) shall be distributed in the manner provided in 42 Pa.C.S. § 3571(b)(2) and (3) (relating to Commonwealth portion of fines, etc.).*

(b) Signal by police officer.—The signal given by the police officer may be by hand, voice, emergency lights or siren.

(c) Defenses.—It is a defense to a prosecution under this section that the pursuing police vehicle was not clearly identifiable by its markings or, if unmarked, was not occupied by a police officer who was in uniform and displaying a badge or other sign of authority.

Section 4. Chapter 63 of Title 75 is amended by adding a subchapter to read:

CHAPTER 63
ENFORCEMENT

* * *

SUBCHAPTER C
PURSUIT OF VEHICLES

Sec.

- 6341. Definitions.
- 6342. Written policies required.
- 6343. Pursuit records.
- 6344. Pennsylvania State Police report.
- 6345. Liability.

§ 6341. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commission.” The Municipal Police Officers’ Education and Training Commission established under the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law.

“Commissioner.” The Commissioner of the Pennsylvania State Police.

“Motor vehicle pursuit.” An active attempt by a police officer operating a motor vehicle to apprehend one or more occupants of a motor vehicle when the driver of the vehicle is resisting the apprehension by maintaining or increasing his speed or by ignoring the police officer’s audible or visual signal to stop.

§ 6342. Written policies required.

(a) General rule.—Each police department shall develop and implement a written emergency vehicle response policy governing the procedures under which a police officer should initiate, continue and terminate a motor vehicle pursuit. This policy may be the model policy endorsed by a national or state organization or association of police chiefs or police officers. The written policy shall incorporate the guidelines under this section.

(b) Intent of guidelines.—The guidelines under this section are solely intended to direct police departments to maintain pursuit policies and outline the content of those pursuit policies. The guidelines contained in this section are not intended to mandate the actions of individual police officers during any particular pursuit.

(c) Policy guidelines.—Each police department policy shall include, but not be limited to, the following procedural elements:

(1) Decision making criteria or principles for initiation of pursuit.

These criteria or principles may include, but not be limited to:

(i) The potential for harm or immediate or potential danger to others if the fleeing individual or individuals escape.

(ii) The seriousness of the offense committed or believed to have been committed by the individual or individuals attempting to flee.

(iii) Safety factors that pose a risk to police officers, other motorists, pedestrians and other persons.

(2) Responsibilities of the pursuing officers.

(3) Responsibilities for the communications center.

(4) Responsibilities of the field supervisor.

(5) Traffic regulations during pursuit, including, but not limited to, the use of emergency equipment, audio signals and visual signals.

(6) Pursuit tactics.

(7) Roadblock usage.

(8) Communication and coordination of pursuit protocol for interjurisdictional pursuit.

(9) Decision making criteria or principles for termination of pursuit. These criteria or principles may include, but not be limited to, safety factors that pose a risk to police officers, other motorists, pedestrians and other persons.

(d) Biennial certification.—The commission shall certify every other year whether each department has a pursuit policy in force. The commission shall provide to the Pennsylvania State Police a list of those municipal police departments that have and have not notified or certified to the commission that that department has a pursuit policy. The biennial certification may be implemented simultaneously with other certifications conducted by the commission.

(e) Policy confidential.—A policy adopted under this section shall be confidential and shall not be made available to the general public.

(f) Limitations.—No police departmental policy may violate or supersede the requirements of section 3105 (relating to drivers of emergency vehicles). § 6343. Pursuit records.

(a) General rule.—All police departments shall maintain records of all motor vehicle pursuits.

(b) Procedure.—The commissioner, in consultation with the Pennsylvania Chiefs of Police Association and the Fraternal Order of Police, shall develop a reporting mechanism for which all police departments must comply and submit records of all motor vehicle pursuits. The commissioner, with the approval of the commission, shall determine the most efficient and least burdensome procedure for which this reporting requirement shall be carried out. This procedure may be incorporated at the discretion of the commissioner within existing or forthcoming uniform crime reporting functions, including a national incident-based reporting system.

(c) Content.—The report shall include, but not be limited to, the following information:

(1) Reason for pursuit.

(2) Injuries, if any, and to what persons.

(3) Property damage, if any.

(4) Deaths, if any.

(5) Suspect information, including statute violations and apprehension status of the suspect.

(6) Any other information deemed necessary by the commissioner to evaluate and improve pursuit policies.

(d) Implementation.—The commissioner may implement the reporting requirements to coincide with the timing of the implementation of a national incident-based reporting system within this Commonwealth.

§ 6344. Pennsylvania State Police report.

(a) Annual report.—The Pennsylvania State Police shall compile pursuit data sent to it by individual police departments on an annual basis. The Pennsylvania State Police shall make an annual report based on Statewide data to the Appropriations Committee, the Transportation Committee and the

Judiciary Committee of the Senate, the Appropriations Committee, the Transportation Committee and the Judiciary Committee of the House of Representatives, the Department of Transportation, the Office of Attorney General, the Law and Justice Committee of the Senate and all police departments which contribute to the report.

(b) Contents.—The Statewide report shall include, but not be limited to, the following information:

(1) Statewide totals or averages of information collected under section 6343(b) (relating to pursuit record).

(2) The total number and percentage of pursuits involving accidents.

(3) The total number and percentage of pursuits involving injuries.

(4) The total number and percentage of pursuits involving deaths.

(5) The percentage of fleeing individuals who are charged with nonpursuit-related offenses and a numerically totaled breakdown of those nonpursuit-related charges.

(6) A list of police departments which have not notified or certified to the commission that they have a pursuit policy as required by section 6342 (relating to written policies required).

(c) Submission of annual report.—The Pennsylvania State Police shall submit the first annual report after the first full calendar year of data collection.

§ 6345. Liability.

This subchapter does not increase the liability nor decrease the protection afforded municipalities and their employees under 42 Pa.C.S. Ch. 85 Subch. C (relating to matters affecting government units).

Section 5. The first \$200,000 of the fines collected under 75 Pa.C.S. § 3733 which are not the subject of distribution to municipalities under 42 Pa.C.S. § 3571(b)(2) or (3) are hereby appropriated from the Motor License Fund to the Pennsylvania State Police for the implementation of 75 Pa.C.S. § 6343.

Section 6. This act shall take effect as follows:

(1) The amendment of 42 Pa.C.S. § 6801(h) and (i) shall take effect in 60 days.

(2) The amendment of 75 Pa.C.S. § 1508(d) shall take effect upon the date of notice published in the Pennsylvania Bulletin by the Department of Transportation that the Pennsylvania Driver's Manual has been reprinted for distribution to the general public. If this notice is not published on or before the date occurring one year from the date of final enactment of this act, section 1508(d) shall take effect one year from the date of final enactment of this act.

(3) The addition of 75 Pa.C.S. § 6343 shall take effect January 1, 1996.

(4) This section shall take effect immediately.

(5) The remainder of this act shall take effect in 180 days.

APPROVED—The 27th day of December, A.D. 1994.

ROBERT P. CASEY