

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1615 Session of 2025

INTRODUCED BY KAUFFMAN, BRIGGS, FREEMAN, GAYDOS, HANBIDGE,
D. WILLIAMS, SANCHEZ, RAPP, PROKOPIAK, ZIMMERMAN, RIVERA,
WATRO, GREEN AND K. HARRIS, JUNE 16, 2025

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 29, 2025

AN ACT

1 ~~Amending Title 75 (Vehicles) of the Pennsylvania Consolidated~~ <--
2 ~~Statutes, in licensing of drivers, further providing for~~
3 ~~grading, for penalties and for prior offenses, and~~
4 ~~establishing the Driving Under the Influence Treatment~~
5 ~~Program.~~

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

8 ~~Section 1. Sections 1552, 3803(a) introductory paragraph and~~
9 ~~(b), 3804(a) introductory paragraph, 3806 and 3807 of Title 75~~
10 ~~of the Pennsylvania Consolidated Statutes are amended to read:~~
11 ~~§ 1552. [Accelerated Rehabilitative Disposition.~~

12 ~~The court of common pleas in each judicial district and the~~
13 ~~Municipal Court of Philadelphia shall establish and implement a~~
14 ~~program for Accelerated Rehabilitative Disposition for persons~~
15 ~~charged with a violation of section 3802 (relating to driving~~
16 ~~under influence of alcohol or controlled substance) in~~
17 ~~accordance with the provisions of this chapter, Chapter 38~~
18 ~~(relating to driving after imbibing alcohol or utilizing drugs).~~

~~and rules adopted by the Supreme Court.] Driving Under the Influence Treatment Program.~~

~~The court of common pleas in each judicial district and the Municipal Court of Philadelphia shall establish and implement a Driving Under the Influence Treatment Program in accordance with section 3807 (relating to Driving Under the Influence Treatment Program) for persons charged with a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) in accordance with the provisions of this chapter, Chapter 38 (relating to driving after imbibing alcohol or utilizing drugs) and rules adopted by the Supreme Court.~~

~~§ 3803. Grading.~~

~~(a) Basic offenses. Except as provided in subsection (b) and section 3807 (relating to Driving Under the Influence Treatment Program):~~

~~* * *~~

~~(b) Other offenses. Except as provided in section 3807:~~

~~(1) An individual who violates section 3802(a)(1) where there was an accident resulting in bodily injury, serious bodily injury or death of any person or in damage to a vehicle or other property, or who violates section 3802(b), (c) or (f) and who has one prior offense commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804.~~

~~(2) An individual who violates section 3802(a)(1) where the individual refused testing of breath or chemical testing pursuant to a valid search warrant, court order or any other basis permissible by the Constitution of the United States and the Constitution of Pennsylvania, or who violates section~~

1 ~~3802(c) or (d) and who has no prior offenses commits a~~
2 ~~misdemeanor for which the individual may be sentenced to a~~
3 ~~term of imprisonment of not more than six months and to pay a~~
4 ~~fine under section 3804.~~

5 ~~(3) An individual who violates section 3802(a)(1) where~~
6 ~~there was an accident resulting in bodily injury, serious~~
7 ~~bodily injury or death of any person or in damage to a~~
8 ~~vehicle or other property, or who violates section 3802(b),~~
9 ~~(e) or (f) and who has two prior offenses commits a~~
10 ~~misdemeanor of the first degree.~~

11 ~~(4) An individual who violates section 3802(a)(1) where~~
12 ~~the individual refused testing of breath or chemical testing~~
13 ~~pursuant to a valid search warrant, court order or any other~~
14 ~~basis permissible by the Constitution of the United States~~
15 ~~and the Constitution of Pennsylvania, or who violates section~~
16 ~~3802(c) or (d) and who has one prior offense commits a~~
17 ~~misdemeanor of the first degree.~~

18 ~~(4.1) An individual who violates section 3802(a)(1)~~
19 ~~where the individual refused testing of breath or chemical~~
20 ~~testing pursuant to a valid search warrant, court order or~~
21 ~~any other basis permissible by the Constitution of the United~~
22 ~~States and the Constitution of Pennsylvania, or who violates~~
23 ~~section 3802(c) or (d), commits:~~

24 ~~(i) A felony of the third degree if the individual~~
25 ~~has two prior offenses.~~

26 ~~(ii) A felony of the second degree if the individual~~
27 ~~has three or more prior offenses.~~

28 ~~(5) An individual who violates section 3802 where a~~
29 ~~minor under 18 years of age was an occupant in the vehicle~~
30 ~~when the violation occurred commits:~~

~~(i) A misdemeanor of the first degree if the individual has no more than one prior offense.~~

~~(ii) A felony of the third degree if the individual has two or more prior offenses.~~

~~§ 3804. Penalties.~~

~~(a) General impairment. Except as set forth in subsection (b) or (c) and section 3807 (relating to Driving Under the Influence Treatment Program), an individual who violates section 3802(a) (relating to driving under influence of alcohol or controlled substance) shall be sentenced as follows:~~

~~* * *~~

~~§ 3806. Prior offenses.~~

~~(a) General rule. Except as set forth in subsection (b), the term "prior offense" as used in this chapter shall mean any conviction for which judgment of sentence has been imposed, adjudication of delinquency, juvenile consent decree[, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition] or preliminary disposition where a plea of guilty or nolo contendere was accepted by the court, including acceptance into the Driving Under the Influence Treatment Program under section 3807 (relating to Driving Under the Influence Treatment Program), before the sentencing on the present violation for any of the following:~~

~~(1) an offense under section 3802 (relating to driving under influence of alcohol or controlled substance);~~

~~(2) an offense under former section 3731;~~

~~(3) an offense substantially similar to an offense under paragraph (1) or (2) in another jurisdiction; or~~

~~(4) any combination of the offenses set forth in paragraph (1), (2) or (3).~~

~~(b) Timing.~~

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

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

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

~~[(2) The court shall calculate the number of prior offenses, if any, at the time of sentencing.]~~

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

~~§ 3807. [Accelerated Rehabilitative Disposition.~~

~~(a) Eligibility.~~

~~(1) Except as set forth in paragraph (2), a defendant charged with a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) may be considered by the attorney for the Commonwealth for participation in an Accelerated Rehabilitative Disposition program in a county if the program includes the minimum requirements contained in this section.~~

~~(2) The attorney for the Commonwealth shall not submit a charge brought under this chapter for Accelerated Rehabilitative Disposition if any of the following apply:~~

~~(i) The defendant has been found guilty of or accepted Accelerated Rehabilitative Disposition of a charge brought under section 3802 within ten years of the~~

1 ~~date of the current offense unless the charge was for an~~
2 ~~ungraded misdemeanor under section 3802(a)(2) and was the~~
3 ~~defendant's first offense under section 3802.~~

4 ~~(ii) An accident occurred in connection with the~~
5 ~~events surrounding the current offense and an individual~~
6 ~~other than the defendant was killed or suffered serious~~
7 ~~bodily injury as a result of the accident.~~

8 ~~(iii) There was a passenger under 14 years of age in~~
9 ~~the motor vehicle the defendant was operating.~~

10 ~~(b) Evaluation and treatment.~~

11 ~~(1) A defendant offered Accelerated Rehabilitative~~
12 ~~Disposition for a violation of section 3802 is, as a~~
13 ~~condition of participation in the program, subject to the~~
14 ~~following requirements in addition to any other conditions of~~
15 ~~participation imposed by the court:~~

16 ~~(i) The defendant must attend and successfully~~
17 ~~complete an alcohol highway safety school established~~
18 ~~under section 1549 (relating to establishment of~~
19 ~~schools). A participating defendant shall be given both~~
20 ~~oral and written notice of the provisions of section~~
21 ~~1543(b) (relating to driving while operating privilege is~~
22 ~~suspended or revoked).~~

23 ~~(ii) Prior to receiving Accelerated Rehabilitative~~
24 ~~Disposition or other preliminary disposition, the~~
25 ~~defendant must be evaluated under section 3816(a)~~
26 ~~(relating to requirements for driving under influence~~
27 ~~offenders) to determine the extent of the defendant's~~
28 ~~involvement with alcohol or other drug and to assist the~~
29 ~~court in determining what conditions of Accelerated~~
30 ~~Rehabilitative Disposition would benefit the defendant~~

1 ~~and the public. If the evaluation indicates there is a~~
2 ~~need for counseling or treatment, the defendant shall be~~
3 ~~subject to a full assessment for alcohol and drug~~
4 ~~addiction in accordance with the provisions of section~~
5 ~~3814(3) and (4) (relating to drug and alcohol~~
6 ~~assessments).~~

7 ~~(iii) If the defendant is assessed under~~
8 ~~subparagraph (ii) to be in need of treatment, the~~
9 ~~defendant must participate and cooperate with a licensed~~
10 ~~alcohol or drug addiction treatment program. The level~~
11 ~~and duration of treatment shall be in accordance with the~~
12 ~~recommendations of the full assessment. Nothing in this~~
13 ~~subparagraph shall prevent a treatment program from~~
14 ~~refusing to accept a defendant if the program~~
15 ~~administrator deems the defendant to be inappropriate for~~
16 ~~admission to the program. A treatment program shall~~
17 ~~retain the right to immediately discharge into the~~
18 ~~custody of the probation officer an offender who fails to~~
19 ~~comply with program rules and treatment expectations or~~
20 ~~refuses to constructively engage in the treatment~~
21 ~~process.~~

22 ~~(iv) The defendant must remain subject to court~~
23 ~~supervision for at least six months, but not more than 12~~
24 ~~months.~~

25 ~~(v) The defendant must make restitution to any~~
26 ~~person that incurred determinable financial loss as a~~
27 ~~result of the defendant's actions which resulted in the~~
28 ~~offense. Restitution must be subject to court~~
29 ~~supervision.~~

30 ~~(vi) The defendant must pay the reasonable costs of~~

~~a municipal corporation in connection with the offense.~~
~~Fees imposed under this subparagraph shall be distributed~~
~~to the affected municipal corporation.~~

~~(vii) The defendant must pay any other fee,~~
~~surcharge or cost required by law. Except as set forth in~~
~~subparagraph (vi), (viii) or (ix), a 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 chapter~~
~~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.).~~

~~(viii) The defendant must pay the costs of~~
~~compliance with subparagraphs (i), (ii) and (iii).~~

~~(ix) The defendant shall pay a cost of \$50 which~~
~~shall be forwarded to the State Treasurer for deposit in~~
~~the Emergency Medical Services Operating Fund.~~

~~(2) The defendant shall be subject to a full assessment~~
~~for alcohol and drug addiction if any of the following apply:~~

~~(i) The evaluation under paragraph (1)(ii) indicates~~
~~a likelihood that the defendant is addicted to alcohol or~~
~~other drugs.~~

~~(ii) The defendant's blood alcohol content at the~~
~~time of the offense was at least 0.16%.~~

~~(3) The assessment under paragraph (2) shall be~~
~~conducted by one of the following:~~

~~(i) The Department of Health or its designee.~~

~~(ii) The county agency with responsibility for~~
~~county drug and alcohol programs or its designee.~~

~~(iii) The clinical personnel of a facility licensed by the Department of Health for the conduct of drug and alcohol addiction treatment programs.~~

~~(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:~~

~~(i) Length of stay.~~

~~(ii) Levels of care.~~

~~(iii) Follow up care and monitoring.~~

~~(c) Insurance.~~

~~(1) This subsection shall only apply to a health insurance, health maintenance organization or other health plan required to provide benefits under section 602-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~(2) If an individual who is insured by a health insurance, a health maintenance organization or other health plan, that is doing business in this Commonwealth, the individual may not be deprived of alcohol and other drug abuse and addiction treatment or coverage within the scope of that plan due to the identification of an alcohol or other drug problem which occurs as a result of an assessment under this section.~~

~~(d) Mandatory suspension of operating privileges. As a condition of participation in an Accelerated Rehabilitative Disposition program, the court shall order the defendant's license suspended as follows:~~

~~(1) There shall be no license suspension if the defendant's blood alcohol concentration at the time of testing was less than 0.10%.~~

1 ~~(2) For 30 days if the defendant's blood alcohol~~
2 ~~concentration at the time of testing was at least 0.10% but~~
3 ~~less than 0.16%.~~

4 ~~(3) For 60 days if:~~

5 ~~(i) the defendant's blood alcohol concentration at~~
6 ~~the time of testing was 0.16% or higher;~~

7 ~~(ii) the defendant's blood alcohol concentration is~~
8 ~~not known;~~

9 ~~(iii) an accident which resulted in bodily injury or~~
10 ~~in damage to a vehicle or other property occurred in~~
11 ~~connection with the events surrounding the current~~
12 ~~offense; or~~

13 ~~(iv) the defendant was charged pursuant to section~~
14 ~~3802(d).~~

15 ~~(4) For 90 days if the defendant was a minor at the time~~
16 ~~of the offense.~~

17 ~~(e) Failure to comply.~~

18 ~~(1) A defendant who fails to complete any of the~~
19 ~~conditions of participation contained in this section shall~~
20 ~~be deemed to have unsuccessfully participated in an~~
21 ~~Accelerated Rehabilitative Disposition program, and the~~
22 ~~criminal record underlying participation in the program shall~~
23 ~~not be expunged.~~

24 ~~(2) The court shall direct the attorney for the~~
25 ~~Commonwealth to proceed on the charges as prescribed in the~~
26 ~~Rules of Criminal Procedure if the defendant:~~

27 ~~(i) fails to meet any of the requirements of this~~
28 ~~section;~~

29 ~~(ii) is charged with or commits an offense under 18~~
30 ~~Pa.C.S. (relating to crimes and offenses); or~~

~~(iii) violates any other condition imposed by the court.] Driving Under the Influence Treatment Program.~~

~~(a) Eligibility.~~

~~(1) Except as set forth in paragraph (2), a defendant who enters a plea of guilty or nolo contendere to a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) may be sentenced to the Driving Under the Influence Treatment Program with the consent of the prosecuting attorney if the program includes the minimum requirements contained in this section.~~

~~(2) A defendant may not be eligible for the Driving Under the Influence Treatment Program if any of the following apply:~~

~~(i) The defendant has been found guilty of or accepted Accelerated Rehabilitative Disposition or other form of preliminary disposition for a charge brought under section 3802 within 10 years of the date of the current offense unless the charge was for an ungraded misdemeanor under section 3802(a)(2) and was the defendant's first offense under section 3802.~~

~~(ii) An accident occurred in connection with the events surrounding the current offense and an individual other than the defendant was killed or suffered serious bodily injury as a result of the accident.~~

~~(iii) There was a passenger under 14 years of age in the motor vehicle the defendant was operating.~~

~~(b) Evaluation and treatment.~~

~~(1) A defendant sentenced to the Driving Under the Influence Treatment Program for a violation of section 3802 shall, as a condition of participation in the program, be~~

~~subject to the following requirements in addition to any other conditions of participation imposed by the court:~~

~~(i) The defendant shall attend and successfully complete an alcohol highway safety school established under section 1549 (relating to establishment of schools). A participating defendant shall be given both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked).~~

~~(ii) Prior to being sentenced to the Driving Under the Influence Treatment Program, the defendant shall be evaluated under section 3816(a) (relating to requirements for driving under influence offenders) to determine the extent of the defendant's involvement with alcohol or other drugs and to assist the court in determining what conditions of the Driving Under the Influence Treatment Program would benefit the defendant and the public. If the evaluation indicates there is a need for counseling or treatment, the defendant shall be subject to a full assessment for alcohol and drug addiction in accordance with the provisions of section 3814(3) and (4) (relating to drug and alcohol assessments).~~

~~(iii) If the defendant is assessed under subparagraph (ii) to be in need of treatment, the defendant shall participate and cooperate with a licensed alcohol or drug addiction treatment program. The level and duration of treatment shall be in accordance with the recommendations of the full assessment. Nothing in this subparagraph shall prevent a treatment program from refusing to accept a defendant if the program~~

~~administrator deems the defendant to be inappropriate for admission to the program. A treatment program shall retain the right to immediately discharge into the custody of the probation officer an offender who fails to comply with program rules and treatment expectations or refuses to constructively engage in the treatment process.~~

~~(iv) Notwithstanding sections 3803 (relating to grading) and 3804 (relating to penalties), the defendant shall remain subject to court supervision for at least six months, but not more than 12 months.~~

~~(v) The defendant shall make restitution to any person that incurred determinable financial loss as a result of the defendant's actions which resulted in the offense. Restitution must be subject to court supervision.~~

~~(vi) The defendant shall pay the reasonable costs of a municipal corporation in connection with the offense. Fees imposed under this subparagraph shall be distributed to the affected municipal corporation.~~

~~(vii) The defendant shall pay any other fee, surcharge or cost required by law. Except as set forth in subparagraph (vi), (viii), (ix), or (x), a fee or financial condition imposed by a judge as a condition of the Driving Under the Influence Treatment Program or any other preliminary disposition of any charge under this chapter 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.).~~

~~(viii) The defendant shall pay the costs of compliance with subparagraphs (i), (ii) and (iii).~~

~~(ix) The defendant shall pay a cost of \$50, which shall be forwarded to the State Treasurer for deposit in the Emergency Medical Services Operating Fund.~~

~~(x) The conditions of the program may include the imposition of a reasonable charge relating to the expense of administering the program.~~

~~(2) The defendant shall be subject to a full assessment for alcohol and drug addiction if any of the following apply:~~

~~(i) The evaluation under paragraph (1)(ii) indicates a likelihood that the defendant is addicted to alcohol or other drugs.~~

~~(ii) The defendant's blood alcohol content at the time of the offense was at least 0.16%.~~

~~(3) The assessment under paragraph (2) shall be conducted by one of the following:~~

~~(i) The Department of Health, or its designee.~~

~~(ii) The county agency with responsibility for county drug and alcohol programs, or its designee.~~

~~(iii) The clinical personnel of a facility licensed by the Department of Health for the conduct of drug and alcohol addiction treatment programs.~~

~~(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:~~

~~(i) Length of stay.~~

~~(ii) Levels of care.~~

~~(iii) Follow up care and monitoring.~~

~~(c) Insurance.~~

~~(1) This subsection shall only apply to a health insurance, health maintenance organization or other health plan required to provide benefits under section 602-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~(2) If an individual who is insured by a health insurance, a health maintenance organization or other health plan that is doing business in this Commonwealth, the individual may not be deprived of alcohol and other drug abuse and addiction treatment or coverage within the scope of that plan due to the identification of an alcohol or other drug problem which occurs as a result of an assessment under this section.~~

~~(d) Mandatory suspension of operating privileges. As a condition of participation in the Driving Under the Influence Treatment Program, the court shall order the defendant's license suspended as follows:~~

~~(1) There shall be no license suspension if the defendant's blood alcohol concentration at the time of testing was less than 0.10%.~~

~~(2) For 30 days if the defendant's blood alcohol concentration at the time of testing was at least 0.10% but less than 0.16%.~~

~~(3) For 60 days if:~~

~~(i) the defendant's blood alcohol concentration at the time of testing was 0.16% or higher;~~

~~(ii) the defendant's blood alcohol concentration is not known;~~

~~(iii) an accident which resulted in bodily injury or in damage to a vehicle or other property occurred in~~

~~connection with the events surrounding the current offense; or~~

~~(iv) the defendant was charged pursuant to section 3802(d).~~

~~(4) For 90 days if the defendant was a minor at the time of the offense.~~

~~(e) Failure to comply.~~

~~(1) The court shall direct the defendant to appear for a violation hearing if it is alleged that the defendant:~~

~~(i) failed to meet any of the requirements of this section;~~

~~(ii) failed to meet any other condition imposed by the court;~~

~~(iii) has been charged with a new criminal offense.~~

~~(2) If the defendant is found in violation, the court may remove the defendant from the Driving Under the Influence Treatment Program and sentence the defendant pursuant to the applicable statutes or may allow the defendant to continue participation in the program.~~

~~(3) Notwithstanding continued participation in the Driving Under the Influence Treatment Program, a defendant who is found in violation of any of the conditions of participation contained in this section shall not be eligible to have the defendant's criminal record expunged.~~

~~(f) Successful completion of program. Notwithstanding the requirements of 18 Pa.C.S. § 9122 (relating to expungement), upon successful completion of the Driving Under the Influence Treatment Program, the court of common pleas shall enter an order directing the expungement of this offense from the defendant's criminal record. The following apply:~~

~~(1) An expungement order under this subsection shall contain the same information that is required in 234 Pa. Code Rules 490(c) (relating to procedure for obtaining expungement in summary cases; expungement order) and 790(c) (relating to procedure for obtaining expungement in court cases; expungement order).~~

~~(2) The attorney for the Commonwealth shall be provided notice and an opportunity to object to automatic expungement under this subsection.~~

~~(3) Notwithstanding any expungement of the defendant's criminal record pursuant to this subsection, the Department of Transportation shall retain a record of the defendant's conviction and sentence under this section on their official driver history.~~

~~(4) The prosecuting attorney and the central repository shall, and the court may, maintain a list of the names and other criminal history record information of persons whose records are required by law or court rule to be expunged where the individual has successfully completed the conditions of the Driving Under the Influence Treatment Program and the court has ordered expungement under this section. Such information shall be used solely for the purposes of determining subsequent eligibility for such programs, identifying persons in criminal investigations or determining the grading of subsequent offenses. Such information shall be made available to any court or law enforcement agency upon request.~~

~~Section 2. This act shall take effect in 60 days.~~

AMENDING TITLE 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED
STATUTES, IN LICENSING OF DRIVERS, FURTHER PROVIDING FOR
NOTICE OF ACCEPTANCE OF ACCELERATED REHABILITATIVE
DISPOSITION; IN MISCELLANEOUS PROVISIONS RELATING TO SERIOUS

<--

1 TRAFFIC OFFENSES, FURTHER PROVIDING FOR HOMICIDE BY VEHICLE
2 WHILE DRIVING UNDER INFLUENCE; AND, IN DRIVING AFTER IMBIBING
3 ALCOHOL OR UTILIZING DRUGS, FURTHER PROVIDING FOR THE OFFENSE
4 OF DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
5 SUBSTANCE, FOR GRADING, FOR PENALTIES, FOR PRIOR OFFENSES AND
6 FOR ACCELERATED REHABILITATIVE DISPOSITION.

7 THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
8 HEREBY ENACTS AS FOLLOWS:

9 SECTION 1. SECTION 1534 OF TITLE 75 OF THE PENNSYLVANIA
10 CONSOLIDATED STATUTES IS AMENDED TO READ:

11 § 1534. NOTICE OF ACCEPTANCE AND COMPLETION OF ACCELERATED
12 REHABILITATIVE DISPOSITION.

13 (A) [GENERAL RULE] ACCEPTANCE NOTICE.--EXCEPT AS PROVIDED IN
14 SUBSECTION (B), IF A PERSON IS ARRESTED FOR ANY OFFENSE
15 ENUMERATED IN SECTION 1532 (RELATING TO REVOCATION OR SUSPENSION
16 OF OPERATING PRIVILEGE) AND IS OFFERED AND ACCEPTS ACCELERATED
17 REHABILITATIVE DISPOSITION UNDER GENERAL RULES, THE COURT SHALL
18 PROMPTLY NOTIFY THE DEPARTMENT.

19 (B) EXCEPTION.--IF A PERSON IS ARRESTED FOR ANY OFFENSE
20 ENUMERATED IN SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE
21 OF ALCOHOL OR CONTROLLED SUBSTANCE) AND IS OFFERED AND ACCEPTS
22 ACCELERATED REHABILITATIVE DISPOSITION UNDER THIS TITLE OR
23 GENERAL RULES, THE COURT SHALL PROMPTLY NOTIFY THE DEPARTMENT.
24 THE DEPARTMENT SHALL MAINTAIN A RECORD OF THE ACCEPTANCE OF
25 ACCELERATED REHABILITATIVE DISPOSITION [FOR A PERIOD OF TEN
26 YEARS FROM THE DATE OF NOTIFICATION. THIS RECORD SHALL NOT BE
27 EXPUNGED BY ORDER OF COURT OR PRIOR TO THE EXPIRATION OF THE
28 TEN-YEAR PERIOD.] AND MAKE THE RECORD AVAILABLE TO ANY
29 PROSECUTING ATTORNEY, COURT OR LAW ENFORCEMENT AGENCY UPON
30 REQUEST.

31 (B.1) COMPLETION NOTICE.--WHEN A PERSON SUCCESSFULLY
32 COMPLETES ACCELERATED REHABILITATIVE DISPOSITION UNDER THIS
33 TITLE OR GENERAL RULES FOR ANY OFFENSE ENUMERATED IN SECTION

1 3802, THE COURT SHALL PROMPTLY NOTIFY THE DEPARTMENT. THE
2 DEPARTMENT SHALL MAINTAIN A RECORD OF THE SUCCESSFUL COMPLETION
3 OF ACCELERATED REHABILITATIVE DISPOSITION AND MAKE THE RECORD
4 AVAILABLE TO ANY PROSECUTING ATTORNEY, COURT OR LAW ENFORCEMENT
5 AGENCY UPON REQUEST.

6 (C) EXPUNGEMENT.--IMMEDIATELY FOLLOWING THE EXPIRATION OF
7 [THE TEN-YEAR PERIOD] 12 YEARS AFTER THE NOTIFICATION PROVIDED
8 IN SUBSECTION (B.1), THE DEPARTMENT SHALL EXPUNGE THE RECORD OF
9 THE ACCEPTANCE AND COMPLETION OF ACCELERATED REHABILITATIVE
10 DISPOSITION. THE DEPARTMENT SHALL NOT REQUIRE AN ORDER OF COURT
11 TO EXPUNGE THE RECORD.

12 (D) EXCEPTIONS TO EXPUNGEMENT.--THE DEPARTMENT SHALL NOT BE
13 REQUIRED TO EXPUNGE THE RECORD OF ACCEPTANCE AND COMPLETION OF
14 ACCELERATED REHABILITATIVE DISPOSITION IF:

15 (1) DURING THE [TEN-YEAR] 12-YEAR PERIOD, THE DEPARTMENT
16 REVOKES THE OPERATING PRIVILEGES OF A PERSON PURSUANT TO
17 SECTION 1542 (RELATING TO REVOCATION OF HABITUAL OFFENDER'S
18 LICENSE); OR

19 (2) THE PERSON WAS A COMMERCIAL DRIVER AT THE TIME OF
20 THE VIOLATION CAUSING THE DISPOSITION.

21 SECTION 2. SECTION 3735(A)(1) AND (3) OF TITLE 75 ARE
22 AMENDED AND THE SUBSECTION IS AMENDED BY ADDING A PARAGRAPH TO
23 READ:

24 § 3735. HOMICIDE BY VEHICLE WHILE DRIVING UNDER INFLUENCE.

25 (A) OFFENSE DEFINED.--

26 (1) A PERSON WHO UNINTENTIONALLY CAUSES THE DEATH OF
27 ANOTHER PERSON AS THE RESULT OF A VIOLATION OF SECTION 3802
28 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
29 SUBSTANCE) AND WHO IS CONVICTED OF VIOLATING SECTION 3802:

30 (I) IS GUILTY OF A FELONY OF THE SECOND DEGREE; [OR]

(II) IS GUILTY OF A FELONY OF THE FIRST DEGREE IF,
BEFORE SENTENCING ON THE PRESENT VIOLATION, THE PERSON
HAS INCURRED A CONVICTION, ADJUDICATION OF DELINQUENCY[,
JUVENILE CONSENT DECREE, ACCEPTANCE OF ACCELERATED
REHABILITATIVE DISPOSITION] OR OTHER FORM OF PRELIMINARY
DISPOSITION FOR ANY OF THE FOLLOWING:

(A) AN OFFENSE UNDER SECTION 3802.

(B) AN OFFENSE UNDER FORMER SECTION 3731
(RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
CONTROLLED SUBSTANCE).

(C) AN OFFENSE WHICH CONSTITUTES A FELONY UNDER
THIS SUBCHAPTER.

(D) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN
OFFENSE UNDER CLAUSE (A), (B) OR (C) IN ANOTHER
JURISDICTION.

(E) ANY COMBINATION OF THE OFFENSES UNDER CLAUSE
(A), (B), (C) OR (D) [.] ; OR

(III) IS GUILTY OF A FELONY OF THE FIRST DEGREE IF
THE PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A) IS
ALSO CONVICTED OF A VIOLATION OF SECTION 3802(H)(1).

* * *

(3) THE SENTENCING COURT SHALL ORDER A PERSON CONVICTED
UNDER PARAGRAPH (1)(II) TO SERVE A MINIMUM TERM OF
IMPRISONMENT OF:

(I) NOT LESS THAN FIVE YEARS IF, BEFORE SENTENCING
ON THE PRESENT VIOLATION, THE PERSON HAS ONE PRIOR
CONVICTION, ADJUDICATION OF DELINQUENCY[, JUVENILE
CONSENT DECREE, ACCEPTANCE OF ACCELERATED REHABILITATIVE
DISPOSITION] OR OTHER FORM OF PRELIMINARY DISPOSITION FOR
ANY OF THE OFFENSES LISTED UNDER PARAGRAPH (1)(II)(A),

(B), (C), (D) OR (E). A CONSECUTIVE FIVE-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH VICTIM WHOSE DEATH IS THE RESULT OF A VIOLATION OF SECTION 3802.

(II) NOT LESS THAN SEVEN YEARS IF, BEFORE SENTENCING ON THE PRESENT VIOLATION, THE PERSON HAS INCURRED A PRIOR CONVICTION FOR VIOLATING SECTION 3802(H)(1) OR AT LEAST TWO PRIOR CONVICTIONS, ADJUDICATIONS OF DELINQUENCY[, JUVENILE CONSENT DECREES, ACCEPTANCES OF ACCELERATED REHABILITATIVE DISPOSITION] OR OTHER FORMS OF PRELIMINARY DISPOSITION FOR ANY OF THE OFFENSES LISTED UNDER PARAGRAPH (1)(II)(A), (B), (C), (D) OR (E). A CONSECUTIVE SEVEN-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH VICTIM WHOSE DEATH IS THE RESULT OF A VIOLATION OF SECTION 3802.

(4) THE SENTENCING COURT SHALL ORDER A PERSON CONVICTED UNDER PARAGRAPH (1)(III) TO SERVE A MINIMUM TERM OF IMPRISONMENT OF NOT LESS THAN FIVE YEARS. A CONSECUTIVE FIVE-YEAR TERM OF IMPRISONMENT SHALL BE IMPOSED FOR EACH VICTIM WHOSE DEATH IS THE RESULT OF A VIOLATION OF SECTION 3802(H)(1).

* * *

SECTION 3. SECTION 3802(G) OF TITLE 75 IS AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

§ 3802. DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.

* * *

(G) EXCEPTION TO TWO-HOUR RULE.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A), (B), (C), (E) [OR], (F) OR (H), WHERE ALCOHOL OR CONTROLLED SUBSTANCE CONCENTRATION IN AN INDIVIDUAL'S BLOOD OR BREATH IS AN ELEMENT OF THE OFFENSE,

1 EVIDENCE OF SUCH ALCOHOL OR CONTROLLED SUBSTANCE CONCENTRATION
2 MORE THAN TWO HOURS AFTER THE INDIVIDUAL HAS DRIVEN, OPERATED OR
3 BEEN IN ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF THE VEHICLE
4 IS SUFFICIENT TO ESTABLISH THAT ELEMENT OF THE OFFENSE UNDER THE
5 FOLLOWING CIRCUMSTANCES:

6 (1) WHERE THE COMMONWEALTH SHOWS GOOD CAUSE EXPLAINING
7 WHY THE CHEMICAL TEST SAMPLE COULD NOT BE OBTAINED WITHIN TWO
8 HOURS; AND

9 (2) WHERE THE COMMONWEALTH ESTABLISHES THAT THE
10 INDIVIDUAL DID NOT IMBIBE ANY ALCOHOL OR UTILIZE A CONTROLLED
11 SUBSTANCE BETWEEN THE TIME THE INDIVIDUAL WAS ARRESTED AND
12 THE TIME THE SAMPLE WAS OBTAINED.

13 (H) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED
14 SUBSTANCE FOLLOWING DIVERSION.--

15 (1) AN INDIVIDUAL MAY NOT DRIVE, OPERATE OR BE IN THE
16 ACTUAL PHYSICAL CONTROL OF THE MOVEMENT OF A VEHICLE IN
17 VIOLATION OF SUBSECTION (A), (B), (C), (D), (E) OR (F) WITHIN
18 10 YEARS AFTER COMPLETING AN ACCELERATED REHABILITATIVE
19 DISPOSITION PROGRAM OR A PRETRIAL DIVERSION PROGRAM
20 SUBSTANTIALLY SIMILAR TO ACCELERATED REHABILITATIVE
21 DISPOSITION IN ANOTHER JURISDICTION, FOR AN OFFENSE UNDER
22 THIS SECTION OR A SUBSTANTIALLY SIMILAR OFFENSE IN ANOTHER
23 JURISDICTION.

24 (2) ANY OF THE FOLLOWING SHALL CONSTITUTE SUFFICIENT
25 PROOF THAT THE DEFENDANT HAS, WITHIN THE LAST 10 YEARS,
26 COMPLETED AN ACCELERATED REHABILITATIVE DISPOSITION PROGRAM
27 OR A PRETRIAL DIVERSION PROGRAM SUBSTANTIALLY SIMILAR TO
28 ACCELERATED REHABILITATIVE DISPOSITION IN ANOTHER
29 JURISDICTION FOR AN OFFENSE UNDER THIS SECTION OR A
30 SUBSTANTIALLY SIMILAR OFFENSE IN ANOTHER JURISDICTION:

1 (I) A CERTIFIED RECORD OF THE DEPARTMENT PURSUANT TO
2 SECTION 6328 (RELATING TO ADMISSIBILITY OF DEPARTMENT
3 RECORDS);

4 (II) A RECORD MAINTAINED BY THE CLERK OF COURTS; OR

5 (III) A SUBSTANTIALLY SIMILAR RECORD FROM ANOTHER
6 JURISDICTION.

7 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
8 LIMITING THE INTRODUCTION OF ANY OTHER COMPETENT EVIDENCE
9 BEARING UPON THE QUESTION OF WHETHER THE DEFENDANT HAS,
10 WITHIN THE LAST 10 YEARS, COMPLETED AN ACCELERATED
11 REHABILITATIVE DISPOSITION PROGRAM OR A PRETRIAL DIVERSION
12 PROGRAM SUBSTANTIALLY SIMILAR TO ACCELERATED REHABILITATIVE
13 DISPOSITION IN ANOTHER JURISDICTION FOR AN OFFENSE UNDER THIS
14 SECTION OR A SUBSTANTIALLY SIMILAR OFFENSE IN ANOTHER
15 JURISDICTION.

16 SECTION 4. SECTION 3803 OF TITLE 75 IS AMENDED TO READ:

17 § 3803. GRADING.

18 (A) BASIC OFFENSES.--EXCEPT AS PROVIDED IN [SUBSECTION (B)]
19 SUBSECTIONS (B) AND (C):

20 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802 (A) (RELATING
21 TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
22 SUBSTANCE) AND HAS NO MORE THAN ONE PRIOR OFFENSE COMMITS A
23 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
24 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
25 FINE UNDER SECTION 3804 (RELATING TO PENALTIES).

26 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802 (A) AND HAS
27 TWO PRIOR OFFENSES OR HAS ONE PRIOR OFFENSE UNDER SECTION
28 3802 (H) (1) COMMITS A MISDEMEANOR OF THE SECOND DEGREE.

29 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802 AND HAS
30 THREE OR MORE PRIOR OFFENSES OR HAS PREVIOUSLY BEEN CONVICTED

1 OF A VIOLATION OF SECTION 3735 (RELATING TO HOMICIDE BY
2 VEHICLE WHILE DRIVING UNDER INFLUENCE) COMMITS A FELONY OF
3 THE THIRD DEGREE.

4 (4) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A), (B), (E)
5 OR (F) AND HAS TWO PRIOR OFFENSES, ONE OF WHICH INCLUDES A
6 VIOLATION OF SECTION 3802(H)(1) COMMITS A FELONY OF THE THIRD
7 DEGREE.

8 (B) OTHER OFFENSES.--

9 (1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
10 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
11 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A
12 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B),
13 (E) OR (F) AND WHO HAS ONE PRIOR OFFENSE COMMITS A
14 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
15 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
16 FINE UNDER SECTION 3804.

17 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
18 THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL TESTING
19 PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY OTHER
20 BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES
21 AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES SECTION
22 3802(C) OR (D) AND WHO HAS NO PRIOR OFFENSES COMMITS A
23 MISDEMEANOR FOR WHICH THE INDIVIDUAL MAY BE SENTENCED TO A
24 TERM OF IMPRISONMENT OF NOT MORE THAN SIX MONTHS AND TO PAY A
25 FINE UNDER SECTION 3804.

26 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A)(1) WHERE
27 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
28 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A
29 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B),
30 (E) OR (F) AND WHO HAS TWO PRIOR OFFENSES OR HAS ONE PRIOR

1 OFFENSE UNDER SECTION 3802(H) (1) COMMITS A MISDEMEANOR OF THE
2 FIRST DEGREE.

3 (4) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1) WHERE
4 THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL TESTING
5 PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY OTHER
6 BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES
7 AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES SECTION
8 3802(C) OR (D) AND WHO HAS ONE PRIOR OFFENSE COMMITS A
9 MISDEMEANOR OF THE FIRST DEGREE.

10 (4.1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1)
11 WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
12 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
13 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED
14 STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES
15 SECTION 3802(C) OR (D), COMMITS:

16 (I) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL
17 HAS TWO PRIOR OFFENSES.

18 (I.1) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL
19 HAS ONE PRIOR OFFENSE UNDER SECTION 3802(H) (1).

20 (II) A FELONY OF THE SECOND DEGREE IF THE INDIVIDUAL
21 HAS THREE OR MORE PRIOR OFFENSES.

22 (III) A FELONY OF THE SECOND DEGREE IF THE
23 INDIVIDUAL HAS TWO PRIOR OFFENSES, ONE OF WHICH INCLUDES
24 A VIOLATION OF SECTION 3802(H) (1).

25 (5) AN INDIVIDUAL WHO VIOLATES SECTION 3802 WHERE A
26 MINOR UNDER 18 YEARS OF AGE WAS AN OCCUPANT IN THE VEHICLE
27 WHEN THE VIOLATION OCCURRED COMMITS:

28 (I) A MISDEMEANOR OF THE FIRST DEGREE IF THE
29 INDIVIDUAL HAS NO MORE THAN ONE PRIOR OFFENSE.

30 (II) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL

HAS TWO OR MORE PRIOR OFFENSES OR HAS ONE PRIOR OFFENSE
UNDER SECTION 3802(H) (1).

(C) OFFENSES FOLLOWING DIVERSION.--

(1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(H) (1) WHERE
THE UNDERLYING OFFENSE IS A VIOLATION OF SECTION 3802(A),
(B), (E) OR (F), COMMITS A MISDEMEANOR FOR WHICH THE
INDIVIDUAL MAY BE SENTENCED TO A TERM OF IMPRISONMENT OF NOT
MORE THAN SIX MONTHS AND TO PAY A FINE UNDER SECTION 3804.

(2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(H) (1) WHERE
THE UNDERLYING OFFENSE IS A VIOLATION OF SECTION 3802(C) OR
(D), COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

SECTION 5. SECTION 3804(A) (2) AND (3), (B) (2), (3) AND (4),
(C) (2) AND (3), (C.1) (2) AND (3) AND (C.2) OF TITLE 75 ARE
AMENDED TO READ:
§ 3804. PENALTIES.

(A) GENERAL IMPAIRMENT.--EXCEPT AS SET FORTH IN SUBSECTION
(B) OR (C), AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (RELATING
TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE)
SHALL BE SENTENCED AS FOLLOWS:

* * *

(2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A
VIOLATION OF SECTION 3802(H) (1), TO:

(I) UNDERGO IMPRISONMENT FOR NOT LESS THAN FIVE
DAYS;

(II) PAY A FINE OF NOT LESS THAN \$300 NOR MORE THAN
\$2,500;

(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
APPROVED BY THE DEPARTMENT; AND

(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

1 (3) FOR A THIRD OR SUBSEQUENT OFFENSE OR A SECOND OR
2 SUBSEQUENT OFFENSE FOLLOWING A CONVICTION FOR VIOLATING
3 SECTION 3802(H) (1), TO:

4 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN TEN DAYS;

5 (II) PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN
6 \$5,000; AND

7 (III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
8 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

9 (B) HIGH RATE OF BLOOD ALCOHOL; MINORS; COMMERCIAL VEHICLES
10 AND SCHOOL BUSES AND SCHOOL VEHICLES; ACCIDENTS.--EXCEPT AS SET
11 FORTH IN SUBSECTION (C), AN INDIVIDUAL WHO VIOLATES SECTION
12 3802(A) (1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY
13 INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR DAMAGE
14 TO A VEHICLE OR OTHER PROPERTY OR WHO VIOLATES SECTION 3802(B),
15 (E) OR (F) SHALL BE SENTENCED AS FOLLOWS:

16 * * *

17 (2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A
18 VIOLATION OF SECTION 3802(H) (1), TO:

19 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 30 DAYS;

20 (II) PAY A FINE OF NOT LESS THAN \$750 NOR MORE THAN
21 \$5,000;

22 (III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
23 APPROVED BY THE DEPARTMENT; AND

24 (IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
25 REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

26 (3) FOR A THIRD OFFENSE OR A SECOND OFFENSE FOLLOWING A
27 CONVICTION FOR VIOLATING SECTION 3802(H) (1), TO:

28 (I) UNDERGO IMPRISONMENT OF NOT LESS THAN 90 DAYS;

29 (II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE
30 THAN \$10,000; AND

(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

(4) FOR A FOURTH OR SUBSEQUENT OFFENSE OR A THIRD OR
SUBSEQUENT OFFENSE FOLLOWING A CONVICTION FOR VIOLATING
SECTION 3802(H) (1), TO:

(I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR;

(II) PAY A FINE OF NOT LESS THAN \$1,500 NOR MORE
THAN \$10,000; AND

(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

(C) INCAPACITY; HIGHEST BLOOD ALCOHOL; CONTROLLED
SUBSTANCES.--AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1) AND
REFUSED TESTING OF BREATH UNDER SECTION 1547 (RELATING TO
CHEMICAL TESTING TO DETERMINE AMOUNT OF ALCOHOL OR CONTROLLED
SUBSTANCE) OR TESTING OF BLOOD PURSUANT TO A VALID SEARCH
WARRANT OR AN INDIVIDUAL WHO VIOLATES SECTION 3802(C) OR (D)
SHALL BE SENTENCED AS FOLLOWS:

* * *

(2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A
VIOLATION OF SECTION 3802(H) (1), TO:

(I) UNDERGO IMPRISONMENT OF NOT LESS THAN 90 DAYS;

(II) PAY A FINE OF NOT LESS THAN \$1,500;

(III) ATTEND AN ALCOHOL HIGHWAY SAFETY SCHOOL
APPROVED BY THE DEPARTMENT; AND

(IV) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT
REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

(3) FOR A THIRD OR SUBSEQUENT OFFENSE OR A SECOND OR
SUBSEQUENT OFFENSE FOLLOWING A CONVICTION FOR VIOLATING
SECTION 3802(H) (1), TO:

(I) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE YEAR;

(II) PAY A FINE OF NOT LESS THAN \$2,500; AND

(III) COMPLY WITH ALL DRUG AND ALCOHOL TREATMENT

REQUIREMENTS IMPOSED UNDER SECTIONS 3814 AND 3815.

(C.1) VIOLATION INVOLVING MINOR OCCUPANT.--AN INDIVIDUAL WHO VIOLATES SECTION 3803(B) (5) (RELATING TO GRADING), IN ADDITION TO ANY PENALTY IMPOSED IN THIS CHAPTER, SHALL BE SENTENCED AS FOLLOWS:

* * *

(2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A VIOLATION OF SECTION 3802(H) (1), TO:

(I) PAY A FINE OF NOT LESS THAN \$2,500; AND

(II) UNDERGO IMPRISONMENT OF NOT LESS THAN ONE MONTH NOR MORE THAN SIX MONTHS.

(3) FOR A THIRD OR SUBSEQUENT OFFENSE OR A SECOND OR SUBSEQUENT OFFENSE FOLLOWING A CONVICTION FOR VIOLATING SECTION 3802(H) (1), UNDERGO IMPRISONMENT OF NOT LESS THAN SIX MONTHS NOR MORE THAN TWO YEARS.

(C.2) CONSECUTIVE SENTENCE.--A SENTENCE IMPOSED UPON AN INDIVIDUAL UNDER THIS SECTION WHO HAS TWO OR MORE PRIOR OFFENSES OR HAS ONE PRIOR OFFENSE UNDER SECTION 3802(H) (1) SHALL BE SERVED CONSECUTIVELY TO ANY OTHER SENTENCE THE INDIVIDUAL IS SERVING AND TO ANY OTHER SENTENCE BEING THEN IMPOSED BY THE COURT, EXCEPT FOR THOSE WITH WHICH THE OFFENSE MUST MERGE AS A MATTER OF LAW.

* * *

SECTION 6. SECTION 3806(A) OF TITLE 75 IS AMENDED AND SUBSECTION (B) IS AMENDED BY ADDING A PARAGRAPH TO READ:
§ 3806. PRIOR OFFENSES.

(A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B), THE TERM "PRIOR OFFENSE" AS USED IN THIS CHAPTER SHALL MEAN ANY

1 CONVICTION FOR WHICH JUDGMENT OF SENTENCE HAS BEEN IMPOSED,
2 ADJUDICATION OF DELINQUENCY[, JUVENILE CONSENT DECREE,
3 ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION] OR OTHER
4 FORM OF PRELIMINARY DISPOSITION BEFORE THE SENTENCING ON THE
5 PRESENT VIOLATION FOR ANY OF THE FOLLOWING:

6 (1) AN OFFENSE UNDER SECTION 3802 (RELATING TO DRIVING
7 UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE);

8 (2) AN OFFENSE UNDER FORMER SECTION 3731;

9 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
10 PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION; OR

11 (4) ANY COMBINATION OF THE OFFENSES SET FORTH IN
12 PARAGRAPH (1), (2) OR (3).

13 (B) TIMING.--

14 * * *

15 (4) WHEN THE COMPLETION DATE OF THE ACCELERATED
16 REHABILITATIVE DISPOSITION PROGRAM OR A PRETRIAL DIVERSION
17 PROGRAM SUBSTANTIALLY SIMILAR TO ACCELERATED REHABILITATIVE
18 DISPOSITION IN ANOTHER JURISDICTION FOR AN OFFENSE UNDER
19 SECTION 3802 OR A SUBSTANTIALLY SIMILAR OFFENSE IN ANOTHER
20 JURISDICTION IS MORE THAN 10 YEARS PRIOR TO THE DATE OF THE
21 OFFENSE FOR WHICH THE DEFENDANT IS BEING SENTENCED, A PRIOR
22 CONVICTION FOR VIOLATING SECTION 3802(H)(1) SHALL BE TREATED
23 AS A PRIOR OFFENSE FOR THE UNDERLYING VIOLATION OF SECTION
24 3802.

25 SECTION 7. SECTION 3807(B) OF TITLE 75 IS AMENDED AND THE
26 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

27 § 3807. ACCELERATED REHABILITATIVE DISPOSITION.

28 * * *

29 (B) EVALUATION AND TREATMENT.--

30 (1) A DEFENDANT OFFERED ACCELERATED REHABILITATIVE

DISPOSITION FOR A VIOLATION OF SECTION 3802 IS, AS A
CONDITION OF PARTICIPATION IN THE PROGRAM, SUBJECT TO THE
FOLLOWING REQUIREMENTS IN ADDITION TO ANY OTHER CONDITIONS OF
PARTICIPATION IMPOSED BY THE COURT:

(I) THE DEFENDANT MUST ATTEND AND SUCCESSFULLY
COMPLETE AN ALCOHOL HIGHWAY SAFETY SCHOOL ESTABLISHED
UNDER SECTION 1549 (RELATING TO ESTABLISHMENT OF
SCHOOLS). A PARTICIPATING DEFENDANT SHALL BE GIVEN BOTH
ORAL AND WRITTEN NOTICE OF THE PROVISIONS OF SECTION
1543(B) (RELATING TO DRIVING WHILE OPERATING PRIVILEGE IS
SUSPENDED OR REVOKED).

(II) PRIOR TO RECEIVING ACCELERATED REHABILITATIVE
DISPOSITION OR OTHER PRELIMINARY DISPOSITION, THE
DEFENDANT MUST BE EVALUATED UNDER SECTION 3816(A)
(RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE
OFFENDERS) TO DETERMINE THE EXTENT OF THE DEFENDANT'S
INVOLVEMENT WITH ALCOHOL OR OTHER DRUG AND TO ASSIST THE
COURT IN DETERMINING WHAT CONDITIONS OF ACCELERATED
REHABILITATIVE DISPOSITION WOULD BENEFIT THE DEFENDANT
AND THE PUBLIC. IF THE EVALUATION INDICATES THERE IS A
NEED FOR COUNSELING OR TREATMENT, THE DEFENDANT SHALL BE
SUBJECT TO A FULL ASSESSMENT FOR [ALCOHOL AND DRUG
ADDICTION] SUBSTANCE USE DISORDER IN ACCORDANCE WITH THE
PROVISIONS OF SECTION 3814(3) AND (4) (RELATING TO DRUG
AND ALCOHOL ASSESSMENTS).

(III) IF THE DEFENDANT IS ASSESSED UNDER
SUBPARAGRAPH (II) TO BE IN NEED OF TREATMENT, THE
DEFENDANT MUST PARTICIPATE AND COOPERATE WITH A LICENSED
[ALCOHOL OR DRUG ADDICTION] TREATMENT PROGRAM. THE LEVEL
[AND DURATION] OF TREATMENT SHALL BE IN ACCORDANCE WITH

1 THE RECOMMENDATIONS OF THE FULL ASSESSMENT. NOTHING IN
2 THIS SUBPARAGRAPH SHALL PREVENT A TREATMENT PROGRAM FROM
3 REFUSING TO ACCEPT A DEFENDANT IF THE PROGRAM
4 ADMINISTRATOR DEEMS THE DEFENDANT TO BE INAPPROPRIATE FOR
5 ADMISSION TO THE PROGRAM. A TREATMENT PROGRAM SHALL
6 RETAIN THE RIGHT TO IMMEDIATELY DISCHARGE INTO THE
7 CUSTODY OF THE PROBATION OFFICER AN OFFENDER WHO FAILS TO
8 COMPLY WITH PROGRAM RULES AND TREATMENT EXPECTATIONS OR
9 REFUSES TO CONSTRUCTIVELY ENGAGE IN THE TREATMENT
10 PROCESS.

11 (IV) THE DEFENDANT MUST REMAIN SUBJECT TO COURT
12 SUPERVISION FOR AT LEAST SIX MONTHS, BUT NOT MORE THAN 12
13 MONTHS.

14 (V) THE DEFENDANT MUST MAKE RESTITUTION TO ANY
15 PERSON THAT INCURRED DETERMINABLE FINANCIAL LOSS AS A
16 RESULT OF THE DEFENDANT'S ACTIONS WHICH RESULTED IN THE
17 OFFENSE. RESTITUTION MUST BE SUBJECT TO COURT
18 SUPERVISION.

19 (VI) THE DEFENDANT MUST PAY THE REASONABLE COSTS OF
20 A MUNICIPAL CORPORATION IN CONNECTION WITH THE OFFENSE.
21 FEES IMPOSED UNDER THIS SUBPARAGRAPH SHALL BE DISTRIBUTED
22 TO THE AFFECTED MUNICIPAL CORPORATION.

23 (VII) THE DEFENDANT MUST PAY ANY OTHER FEE,
24 SURCHARGE OR COST REQUIRED BY LAW. EXCEPT AS SET FORTH IN
25 SUBPARAGRAPH (VI), (VIII) OR (IX), A FEE OR FINANCIAL
26 CONDITION IMPOSED BY A JUDGE AS A CONDITION OF
27 ACCELERATED REHABILITATIVE DISPOSITION OR ANY OTHER
28 PRELIMINARY DISPOSITION OF ANY CHARGE UNDER THIS CHAPTER
29 SHALL BE DISTRIBUTED AS PROVIDED FOR IN 42 PA.C.S. §§
30 3571 (RELATING TO COMMONWEALTH PORTION OF FINES, ETC.)

1 AND 3573 (RELATING TO MUNICIPAL CORPORATION PORTION OF
2 FINES, ETC.).

3 (VIII) THE DEFENDANT MUST PAY THE COSTS OF
4 COMPLIANCE WITH SUBPARAGRAPHS (I), (II) AND (III).

5 (IX) THE DEFENDANT SHALL PAY A COST OF \$50 WHICH
6 SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT IN
7 THE EMERGENCY MEDICAL SERVICES OPERATING FUND.

8 (2) THE DEFENDANT SHALL BE SUBJECT TO A FULL ASSESSMENT
9 FOR [ALCOHOL AND DRUG ADDICTION] SUBSTANCE USE DISORDER IF
10 ANY OF THE FOLLOWING APPLY:

11 (I) THE EVALUATION UNDER PARAGRAPH (1)(II) INDICATES
12 A LIKELIHOOD THAT THE DEFENDANT [IS ADDICTED TO ALCOHOL
13 OR OTHER DRUGS] HAS A SUBSTANCE USE DISORDER.

14 (II) THE DEFENDANT'S BLOOD ALCOHOL CONTENT AT THE
15 TIME OF THE OFFENSE WAS AT LEAST 0.16%.

16 (3) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL BE
17 CONDUCTED BY ONE OF THE FOLLOWING:

18 [(I) THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.]

19 (II) THE COUNTY AGENCY WITH RESPONSIBILITY FOR
20 COUNTY DRUG AND ALCOHOL PROGRAMS OR ITS DESIGNEE.

21 (III) THE CLINICAL PERSONNEL OF A FACILITY LICENSED
22 BY THE [DEPARTMENT OF HEALTH FOR THE CONDUCT OF DRUG AND
23 ALCOHOL ADDICTION] DEPARTMENT OF DRUG AND ALCOHOL
24 PROGRAMS FOR THE CONDUCT OF SUBSTANCE USE DISORDER
25 TREATMENT PROGRAMS.

26 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
27 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
28 ALL OF THE FOLLOWING:

29 [(I) LENGTH OF STAY.]

30 (II) LEVELS OF CARE.

(III) FOLLOW-UP CARE AND MONITORING.

* * *

(F) RECORD RETENTION.--

(1) UPON A DEFENDANT'S SUCCESSFUL COMPLETION OF THE PROGRAM PROVIDED FOR IN THIS SECTION, THE COURT SHALL ISSUE AN ORDER EVIDENCING THE COMPLETION.

(2) NOTWITHSTANDING ANY ORDER OF EXPUNGEMENT, THE CLERK OF COURTS SHALL RETAIN A CERTIFIED COPY OF THE COURT ORDER EVIDENCING A DEFENDANT HAS SUCCESSFULLY COMPLETED THE PROGRAM PROVIDED FOR IN THIS SECTION. THE ORDER SHALL BE MAINTAINED FOR 12 YEARS FOLLOWING THE DATE OF THE ENTRY OF THE ORDER. THE ORDER SHALL NOT BE SUBJECT TO INSPECTION AND DUPLICATION UNDER THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, AND USED SOLELY FOR THE PURPOSE OF FUTURE PROSECUTIONS UNDER SECTION 3802(H). A CLERK OF COURTS SHALL PROVIDE A CERTIFIED COPY OF THE ORDER TO ANY PROSECUTING ATTORNEY, COURT OR LAW ENFORCEMENT AGENCY UPON REQUEST.

(3) IMMEDIATELY FOLLOWING THE EXPIRATION OF 12 YEARS FOLLOWING THE ENTRY OF THE ORDER EVIDENCING COMPLETION, THE CLERK OF COURT SHALL EXPUNGE THE RECORD OF THE COMPLETION OF ACCELERATED REHABILITATIVE DISPOSITION. THE CLERK OF COURT SHALL NOT REQUIRE AN ORDER OF COURT TO EXPUNGE THE RECORD.

(G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "SUBSTANCE USE DISORDER" MEANS A PATTERN OF USE OF ALCOHOL OR OTHER DRUGS LEADING TO CLINICAL OR FUNCTIONAL IMPAIRMENT.

SECTION 8. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.