



SENATE OF PENNSYLVANIA BILL SUMMARY

Senate Bill 961 Printer's No. 1337 Amendment No. 5245

Prime Sponsor: Rafferty
Committee: Transportation

SYNOPSIS:

Amends Title 75 (Vehicles) to increase the mandatory minimum sentencing for homicide by vehicle while Driving Under the Influence (DUI) when the person has prior DUI offenses, and amends Titles 18 (Crimes and Offenses) and 75 (Vehicles) to impose additional measures for violations against repeat DUI offenses, homicide by vehicle, aggravated assault by vehicle and aggravated assault by vehicle while DUI.

SUMMARY:

Title 18, Section 303 (relating to causal relationship between conduct and result) and Title 18, Section 2502 (relating to murder):

- Adds a presumption of recklessness or negligence when the death of a person is caused by a person committing a 4th or subsequent DUI offense within a 10-year period, and allows for that person to be charged with murder of the 3rd degree.

Title 75, Section 3732 (relating to homicide by vehicle) and Title 75, Section 3732.1 (relating to aggravated assault by vehicles):

- Adds violations against Sections 1501 (relating to drivers required to be licensed) or 1543 (relating to driving while operating privilege is suspended or revoked) to convictions of homicide by vehicle and aggravated assault by vehicle, which may impose an additional sentencing not to exceed 5 years' confinement.

Title 75, Section 3735 (relating to homicide by vehicle while driving under the influence):

- Requires the sentencing court to order a person who unintentionally causes the death of another person as a result of a 1st violation of Section 3802 (relating to driving under the influence of alcohol or controlled substance) to be found guilty of a felony of the 2nd degree and serve a minimum term of imprisonment of not less than 3 years. A consecutive 3-year term of imprisonment shall be imposed for each victim.
- Requires the sentencing court to order a person who unintentionally causes the death of another person as a result of a 1st violation of Section 3802 (relating to driving under the influence of alcohol or controlled substance) to be found of a felony of the 1st degree shall serve a minimum term of imprisonment of:

- Not less than 5 years if the person has 1 or 2 prior convictions of certain DUI related offenses, and a consecutive 5-year term of imprisonment shall be imposed for each victim.
 - *Refer to “Notes” for meaning of certain dispositions.*
- Not less than 7 years if the person has incurred at least 3 prior convictions of certain DUI related offenses, and a consecutive 7-year term of imprisonment shall be imposed for each victim.
 - *Refer to “Notes” for meaning of certain dispositions.*

Title 75, Section 3735.1 (relating to aggravated assault by vehicle while driving under the influence):

- Adds an additional term not to exceed 2 years’ confinement when a person is convicted of a violation causing serious bodily injury as a result of a DUI and violates Section 1501 (relating to drivers required to be licensed) or 1543 (relating to driving while operating privilege is suspended or revoked).

Title 75, Section 3803 (relating to grading):

- Creates new grading for DUI offenses as follows:
 - A person who commits a 4th or subsequent DUI offense within a 10-year period commits a felony of the 3rd degree.
 - A person who commits a 3rd DUI offense where the person refused breath or chemical testing or if the person violates Section 3802 (c) (relating to highest rate of alcohol) or (d) (relating to controlled substance) commits a felony of the 3rd degree.
- Aligns certain provisions to address a recent U.S. Supreme Court decision in *Birchfield v. North Dakota* regarding a valid search warrant for chemical testing.

Effective Date: 60 days.

NOTES:

Certain dispositions include: A) An offense under Section 3802 (relating to driving under the influence of alcohol or controlled substance), B) An offense under former Section 3731 (relating to driving under the influence of alcohol or controlled substance), C) An offense that constitutes a felony under Title 75, Chapter 37, Subchapter B (relating to serious traffic offenses), D) An offense substantially similar to an offense under clause A, B, and C in another jurisdiction, and E) Any combination of the offenses under clause A, B, C, and D.

BILL HISTORY:

- Introduced and referred to Senate Transportation on 11/15/2017.

Prepared by: N. Ritchie 12/8/2017

*Underlined language references Amendment No. 5245.