

## **Proposed Changes to Pennsylvania's DUI Law**

### **Pennsylvania Senate Transportation Hearing**

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Good morning. I want to thank Chairman Langerholc and Sabatina, as well as the distinguished members of the committee for allowing me to comment on your efforts to make Pennsylvania a safer and healthier place to live in by focusing on the most easily preventable crime: impaired driving.

Before I move on with my comments, suggestions, or observations, I would commit a grave injustice if I did not recognize the previous panelists, especially the victims and family members who understand the impact an impaired driver's irresponsible decision can have on another human life.

My first priority is to paint a picture for you of the characteristics of the average DUI offender in Pennsylvania. This individual is most likely a Caucasian male, with an average age of 36, generating a salary of \$41,000 dollars a year, with an educational background of at least a high school diploma. In half the cases this individual is single or never married. Data compiled from the PA Court Reporting Network highlights the most concerning statistic I can share with you is that the average Pennsylvania DUI offender is arrested with a BAC of 0.17. An equally alarming fact is that one-third of the arrests are for controlled substances. In general, 1 out of 2 DUI offenders admits to polysubstance use at the time of arrest. This data has been pulled from Pennsylvania's Court Reporting Network.

Ladies and gentlemen, the average Pennsylvania DUI Offender is extremely experienced with the use of both alcohol and controlled substances.

Although the main focus of today's hearing is multiple offenders, especially those who are polysubstance users we need to also focus on the vast majority of the offenders which happen to be first time offenders with a very high blood alcohol content and 50% of them with a self-admission of a substance abuse disorder. Again, noting the PA Court Reporting Network Evaluations.

Earlier today you have heard testimony that crashes, and alcohol related injuries are on the increase nationwide, this is unfortunately true for Pennsylvania as well.

The number one causation for a DUI arrest in Pennsylvania is an alcohol related motor vehicle crash. As I have mentioned earlier one half of DUI offenders are in need of behavior modification and drug and alcohol treatment and nothing exemplified this more than the behavior of DUI offenders during the pandemic. If you will recall our bars, private clubs, restaurants and even our wine and spirits stores were closed or operating under limited capacity. These individuals still made the possession and consumption of alcohol a priority. This is proof that those who have a substance abuse disorder are not receiving adequate assistance for their individualized needs.

Ladies and gentlemen, I think it is fair for us to admit that we are not going to be able treat individuals for a disorder by operating under the misguided assumption that we will be able to arrest our way out of this problem.

When Act 24 was passed by the Pennsylvania General Assembly in 2003 and the .08 per se law was enacted as mandated by the Federal Government a complicated three-tiered system to address the needs of the DUI offender was developed. Professionals in the field were promised that the system would not allow for a reduction in minimum sentences and supervision time, nor will allow for plea bargains for a lesser BAC category. Unfortunately, both of those promises are now common practice in our judicial system. Additionally, the promise was that the three tiered system will provide those first offenders ample opportunity for treatment and rehabilitation. The failure of the three-tiered system is most evident with the reduced supervision time of first offenders in the lowest tier. In most cases our county courts have shortened supervision levels on average between 6-12 months in the lowest BAC tier (general impairment) but our Court Reporting Network reflects that 50% of first time offenders have a substance use disorder and are polysubstance users.

Once again ladies and gentlemen we need to invest a longer period of time to allow for the successful intervention and behavior modification of our first-time offenders. If we provide these individual's the opportunity to change their behavior under supervision, we are providing safer roadways for all Pennsylvanians.

I have two recommendations to modify and increase the reduction of recidivism in Pennsylvania. One is to eliminate this soft almost completely decriminalized approach to the lowest tiered DUI offenders by simplifying our code into two categories. The first is .08 to .159 BAC and the second tier is .16 BAC and above. The second category should also include those offenders who are arrested for driving under the influence of controlled substances. If you want to reduce the loss of life and injuries on our roadways let's reduce the offender base that has the tendency to be re-arrested. If you recognize that we need to provide specialized treatment for these individuals then we can no longer afford to provide an inadequate tiered system that does not recognize that offenders have an existing substance abuse disorder.

Ladies and gentlemen, my second recommendation is the mandatory installation of ignition interlock for all DUI offenders. First time offenders, second time offenders and any additional offenses an individual might have. As we keep increasing the treatment for all offenders, let's utilize existing technologies toward behavior modification.

In 2000, your colleagues passed Act 63 in Pennsylvania. This is also known as the ignition interlock bill. This year will mark 20 years since the first ignition interlock was mandated by the Pennsylvania Department of Transportation to be installed on a DUI offenders' vehicle in Pennsylvania. In 2020, 13,604 of the current 45,000 plus DUI offenders have an ignition interlock installed on their vehicles. By using technology for behavior modification, we can announce that last year those 13,604 DUI offenders were able to drive 94 million sober miles. Since this is a behavior modification tool, each of those 13,604 DUI offenders are requested to provide on average a breath sample at start and during the operation of the vehicle 4-7 times per day to assure the Commonwealth's motorist that they are not operating a vehicle under the influence of alcohol. In 2020, this technology prevented the start of the vehicle 90,000 times because of detection of breath alcohol of .025 or above. The use of an ignition interlock device in these offenders' vehicles has prevented 13,503 possible DUI arrests because the offender could not start their vehicles with a BAC .08 or above and 76.5 thousand failures were at the BAC level of .025 and .079. As we celebrate the 20<sup>th</sup> anniversary of Pennsylvania's Ignition Interlock laws, make no mistake: ignition

interlock works, and it is time to install an ignition interlock as part of sentencing or disposition of ALL DUI offenders with such a device.

Pennsylvania has had success with DUI Courts across the Commonwealth. The focus of the DUI Courts is the multiple DUI offender. While we are not advocating the restoration of their full driving privileges, we encourage providing a limited driver's license for DUI Offenders who are in a DUI Court Program with an ignition interlock installed on their vehicle. For those of you unfamiliar with the requirements of DUI Court, this group is subject to a more intensive program that requires multiple appointments to meet with their probation officer, appointments with treatment providers to seek help for their substance abuse disorder, submission of drug testing and attending support groups in addition to treatment for their disorder. Furthermore, these offenders are often employed and without a limited license in a controlled environment they are challenged to successfully complete DUI Court.

Earlier, I focused on the substance abuse disorder for which our first time DUI offenders are not receiving proper care. Next, I focused on the need to change our sentencing guidelines for offenders. I then followed up with the utilization of successful behavior modification tools and technologies in reducing impaired driving. Now, I would like to suggest the same technology be used with those multiple offenders that are constructively changing their behaviors and participating in appropriate treatment modality. Ignition interlocks can be successful in our DUI Courts across the Commonwealth and we are seeing yearly positive results from their use by other offenders.

In closing, I thank you for the opportunity to share the reality of what we face with impaired drivers, and I offer you full assistance towards your efforts for a healthier and safer Pennsylvania.