

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2392 Session of 2026

INTRODUCED BY BENNINGHOFF, ARMANINI, COOK, FEE, FLICK, HANBIDGE, HARKINS, HOHENSTEIN, KULIK, KUZMA, LEADBETER, McNEILL, MERSKI, NEILSON, OLSOMMER, PICKETT, SMITH, STENDER AND MENTZER, APRIL 15, 2026

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 2026

AN ACT

1 Amending ~~Title~~ TITLES 30 (Fish), 42 (JUDICIARY AND JUDICIAL <--  
2 PROCEDURE) AND 75 (VEHICLES) of the Pennsylvania Consolidated  
3 Statutes, in operation of boats, further providing for the  
4 offense of operating watercraft under influence of alcohol or  
5 controlled substance; IN SENTENCING, FURTHER PROVIDING FOR <--  
6 CONDITIONS OF PROBATION; AND, IN DRIVING AFTER IMBIBING  
7 ALCOHOL OR UTILIZING DRUGS, FURTHER PROVIDING FOR GRADING AND  
8 FOR PENALTIES.

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

11 ~~Section 1. Section 5502(a.5) introductory paragraph, (c) and <--~~  
12 ~~(c.1) (1) (ii) and (iii), (2) (ii), (iii) and (iv), (3)~~  
13 ~~introductory paragraph, (ii) and (iii) and (5) (ii) introductory~~  
14 ~~paragraph and (iii) of Title 30 of the Pennsylvania Consolidated~~  
15 ~~Statutes are amended and the section is amended by adding a~~  
16 ~~subsection to read:~~

17 SECTION 1. SECTION 5502(A.5) INTRODUCTORY PARAGRAPH, (C), <--  
18 (C.1) (1) (II) AND (III), (2) (II), (III) AND (IV), (3)  
19 INTRODUCTORY PARAGRAPH, (II) AND (III) AND (5) (II) INTRODUCTORY

1 PARAGRAPH AND (III), (D) AND (N) OF TITLE 30 OF THE PENNSYLVANIA  
2 CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION IS AMENDED BY  
3 ADDING SUBSECTIONS TO READ:

4 § 5502. Operating watercraft under influence of alcohol or  
5 controlled substance.

6 \* \* \*

7 (a.5) Boating under the influence of alcohol or controlled  
8 substance following diversion.--

9 (1) An individual may not operate or be in actual  
10 physical control of the movement of a watercraft in violation  
11 of subsection (a), (a.1), (a.2), (a.3) or (a.4) within 10  
12 years after completing an Accelerated Rehabilitative  
13 Disposition program or a pretrial diversion program  
14 substantially similar to Accelerated Rehabilitative  
15 Disposition in another jurisdiction for an offense under this  
16 section or a substantially similar offense in another  
17 jurisdiction.

18 (2) Any of the following shall constitute sufficient  
19 proof that the defendant has, within the last 10 years,  
20 completed an Accelerated Rehabilitative Disposition program  
21 or a pretrial diversion program substantially similar to  
22 Accelerated Rehabilitative Disposition in another  
23 jurisdiction for an offense under this section or a  
24 substantially similar offense in another jurisdiction:

25 (i) a certified record of the commission;  
26 (ii) a record maintained by the clerk of courts; or  
27 (iii) a substantially similar record from another  
28 jurisdiction.

29 (3) Nothing in this section shall be construed as  
30 limiting the introduction of any other competent evidence

1 bearing upon the question of whether the defendant has,  
2 within the last 10 years, completed an Accelerated  
3 Rehabilitative Disposition program or a pretrial diversion  
4 program substantially similar to Accelerated Rehabilitative  
5 Disposition in another jurisdiction for an offense under this  
6 section or a substantially similar offense in another  
7 jurisdiction.

8 [(a.5)] (a.6) Exception to two-hour rule.--Notwithstanding  
9 the provisions of subsection (a), (a.1), (a.2) [or], (a.4) or  
10 (a.5) where alcohol or controlled substance concentration in an  
11 individual's blood or breath is an element of the offense,  
12 evidence of such alcohol or controlled substance concentration  
13 more than two hours after the individual has operated or been in  
14 actual physical control of the movement of the watercraft is  
15 sufficient to establish that element of the offense under the  
16 following circumstances:

17 \* \* \*

18 (c) Grading.--

19 (1) [Notwithstanding the provisions of paragraph (2)]  
20 Except as provided in paragraphs (2) and (3):

21 (i) An individual who violates subsection (a) and  
22 who has no more than one prior offense commits a  
23 misdemeanor for which the individual may be sentenced to  
24 a term of imprisonment for not more than six months and  
25 to pay a fine under subsection (c.1).

26 (ii) An individual who violates subsection (a) and  
27 who has [more than one prior offense] two prior offenses  
28 or has one prior offense under subsection (a.5) commits a  
29 misdemeanor of the second degree.

30 (iii) An individual who violates this section and

1 has three or more prior offenses or has previously been  
2 convicted of a violation of section 5502.1 (relating to  
3 homicide by watercraft while operating under influence)  
4 commits a felony of the third degree.

5 (iv) An individual who violates subsection (a),  
6 (a.1) or (a.4) and has two prior offenses, one of which  
7 includes a violation of subsection (a.5), commits a  
8 felony of the third degree.

9 (2) (i) An individual who violates subsection (a) (1)  
10 where there was an accident resulting in bodily injury,  
11 serious bodily injury or death of any individual or in  
12 damage to a watercraft or other property and who has no  
13 more than one prior offense commits a misdemeanor for  
14 which the individual may be sentenced to a term of  
15 imprisonment for not more than six months and to pay a  
16 fine under subsection (c.1).

17 (ii) An individual who violates subsection (a.1) or  
18 (a.4) and who has no more than one prior offense commits  
19 a misdemeanor for which the individual may be sentenced  
20 to a term of imprisonment for not more than six months  
21 and to pay a fine under subsection (c.1).

22 (iii) An individual who violates subsection (a) (1)  
23 where the individual refused testing of [blood or] breath  
24 under section 5125 (relating to chemical testing to  
25 determine amount of alcohol or controlled substance) or  
26 chemical testing of blood pursuant to a valid search  
27 warrant and who has no prior offenses commits a  
28 misdemeanor for which the individual may be sentenced to  
29 a term of imprisonment for not more than six months and  
30 to pay a fine under subsection (c.1).

1 (iv) An individual who violates subsection (a.2) or  
2 (a.3) and who has no prior offenses commits a misdemeanor  
3 for which the individual may be sentenced to a term of  
4 imprisonment for not more than six months and to pay a  
5 fine under subsection (c.1).

6 (v) An individual who violates subsection (a)(1)  
7 where there was an accident resulting in bodily injury,  
8 serious bodily injury or death of any individual or in  
9 damage to a watercraft or other property and who has  
10 [more than one prior offense] two prior offenses or has  
11 one prior offense under subsection (a.5) commits a  
12 misdemeanor of the first degree.

13 (vi) An individual who violates subsection (a.1) or  
14 (a.4) and who has [more than one prior offense] two prior  
15 offenses commits a misdemeanor of the first degree.

16 (vii) An individual who violates subsection (a)(1)  
17 where the individual refused testing of [blood or] breath  
18 [and who has one or more prior offenses commits a  
19 misdemeanor of the first degree.] under section 5125 or  
20 chemical testing of blood pursuant to a valid search  
21 warrant or who violates subsection (a.2) or (a.3)  
22 commits:

23 (A) A misdemeanor of the first degree if the  
24 individual has one prior offense.

25 (B) A felony of the third degree if the  
26 individual has two prior offenses.

27 (C) A felony of the third degree if the  
28 individual has one prior offense under subsection  
29 (a.5).

30 (D) A felony of the second degree if the

1 individual has three or more prior offenses.

2 (E) A felony of the second degree if the  
3 individual has two prior offenses, one of which  
4 includes a violation of subsection (a.5).

5 [(viii) An individual who violates subsection (a.2)  
6 or (a.3) and who has one or more prior offenses commits a  
7 misdemeanor of the first degree.]

8 (ix) An individual who violates this section when a  
9 minor under 18 years of age was a passenger in the  
10 watercraft when the violation occurred commits [a  
11 misdemeanor of the first degree.]:

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

14 (B) A felony of the third degree if the  
15 individual has two or more prior offenses or has one  
16 prior offense under subsection (a.5).

17 (3) (i) An individual who violates subsection (a.5)  
18 where the underlying offense is a violation of subsection  
19 (a), (a.1) or (a.4), commits a misdemeanor for which the  
20 individual may be sentenced to a term of imprisonment of  
21 not more than six months and to pay a fine under  
22 subsection (c.1).

23 (ii) An individual who violates subsection (a.5)  
24 where the underlying offense is a violation of subsection  
25 (a.2) or (a.3) commits a misdemeanor of the first degree.

26 (c.1) Penalties.--

27 (1) Except as set forth in paragraph (2), (3), (4) or  
28 (5), an individual who violates subsection (a) shall be  
29 sentenced as follows:

30 \* \* \*

1 (ii) For a second offense or a first offense for a  
2 violation of subsection (a.5) WITH AN UNDERLYING <--  
3 VIOLATION OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, to  
4 undergo imprisonment for not less than five days and to  
5 pay a fine of not less than \$300 nor more than \$2,500 and  
6 successfully complete an approved boating safety course.

7 (iii) For a third or subsequent offense or a second  
8 or subsequent offense following a conviction for  
9 violating subsection (a.5) WITH AN UNDERLYING VIOLATION <--  
10 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, to undergo  
11 imprisonment for not less than ten days and to pay a fine  
12 of not less than \$500 nor more than \$5,000 and  
13 successfully complete an approved boating safety course.

14 (2) Except as set forth in paragraph (3) or (4), an  
15 individual who violates subsection (a)(1) where there was an  
16 accident resulting in bodily injury, serious bodily injury or  
17 death of any individual or damage to a watercraft or other  
18 property or who violates subsection (a.1) or (a.4) shall be  
19 sentenced as follows:

20 \* \* \*

21 (ii) For a second offense or a first offense for a  
22 violation of subsection (a.5) WITH AN UNDERLYING <--  
23 VIOLATION OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, to  
24 undergo imprisonment for not less than 30 days and to pay  
25 a fine of not less than \$750 nor more than \$5,000 and  
26 successfully complete an approved boating safety course.

27 (iii) For a third offense or a second or subsequent  
28 offense following a conviction for violating subsection  
29 (a.5) WITH AN UNDERLYING VIOLATION OF AN OFFENSE <--  
30 ENUMERATED IN THIS SUBSECTION, to undergo imprisonment

1 for not less than 90 days and to pay a fine of not less  
2 than \$1,500 nor more than \$10,000 and successfully  
3 complete an approved boating safety course.

4 (iv) For a fourth or subsequent offense or a third  
5 or subsequent offense following a conviction for  
6 violating subsection (a.5) WITH AN UNDERLYING VIOLATION <--  
7 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, to undergo  
8 imprisonment for not less than one year and to pay a fine  
9 of not less than \$1,500 nor more than \$10,000 and  
10 successfully complete an approved boating safety course.

11 (3) Except as set forth in paragraph (4), an individual  
12 who violates subsection (a)(1) and refused testing of [blood  
13 or] breath under section 5125 or chemical testing of blood  
14 pursuant to a valid search warrant or an individual who  
15 violates subsection (a.2) or (a.3) shall be sentenced as  
16 follows:

17 \* \* \*

18 (ii) For a second offense or a first offense for a  
19 violation of subsection (a.5) WITH AN UNDERLYING <--  
20 VIOLATION OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, to  
21 undergo imprisonment for not less than 90 days and to pay  
22 a fine of not less than \$1,500 and successfully complete  
23 an approved boating safety course.

24 (iii) For a third or subsequent offense or a second  
25 or subsequent offense following a conviction for  
26 violating subsection (a.5) WITH AN UNDERLYING VIOLATION <--  
27 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, to undergo  
28 imprisonment for not less than one year and to pay a fine  
29 of not less than \$2,500 and successfully complete an  
30 approved boating safety course.

1 \* \* \*

2 (5) An individual who violates this section when a minor  
3 under 18 years of age was a passenger in the watercraft when  
4 the violation occurred, in addition to any penalty imposed  
5 under this section, shall be sentenced as follows:

6 \* \* \*

7 (ii) For a second offense or a first offense for a  
8 violation of subsection (a.5) WITH AN UNDERLYING <--  
9 VIOLATION OF AN OFFENSE ENUMERATED IN THIS SUBSECTION:

10 \* \* \*

11 (iii) For a third or subsequent offense or a second  
12 or subsequent offense following a conviction for  
13 violating subsection (a.5) WITH AN UNDERLYING VIOLATION <--  
14 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, undergo  
15 imprisonment for not less than six months nor more than  
16 two years.

17 \* \* \*

18 (D) [SUBSEQUENT CONVICTION.--ACCEPTANCE OF ACCELERATED <--  
19 REHABILITATIVE DISPOSITION, AN ADJUDICATION OF DELINQUENCY OR A <--  
20 CONSENT DECREE UNDER 42 PA.C.S. CH. 63 OR ANY OTHER FORM OF  
21 PRELIMINARY DISPOSITION OF ANY CHARGE BROUGHT UNDER THIS SECTION  
22 OR A CONVICTION OR GUILTY PLEA UNDER 75 PA.C.S. § 3802 SHALL BE  
23 CONSIDERED A FIRST CONVICTION FOR THE PURPOSE OF COMPUTING  
24 WHETHER A SUBSEQUENT CONVICTION OF A VIOLATION OF THIS SECTION  
25 SHALL BE CONSIDERED A SECOND, THIRD OR SUBSEQUENT CONVICTION.]  
26 PRIOR OFFENSES.--THE FOLLOWING SHALL APPLY TO PRIOR OFFENSES:

27 (1) FOR THE PURPOSES OF SUBSECTIONS (C) AND (C.1), THE  
28 PRIOR OFFENSE MUST HAVE OCCURRED IN ONE OF THE FOLLOWING:

29 (I) WITHIN 10 YEARS PRIOR TO THE DATE OF THE OFFENSE  
30 FOR WHICH THE DEFENDANT IS BEING SENTENCED.

1           (II) ON OR AFTER THE DATE OF THE OFFENSE FOR WHICH  
2           THE DEFENDANT IS BEING SENTENCED.

3           (2) THE COURT SHALL CALCULATE THE NUMBER OF PRIOR  
4           OFFENSES, IF ANY, AT THE TIME OF SENTENCING.

5           (3) IF THE DEFENDANT IS SENTENCED FOR TWO OR MORE  
6           OFFENSES IN THE SAME DAY, THE OFFENSES SHALL BE CONSIDERED  
7           PRIOR OFFENSES WITHIN THE MEANING OF THIS SUBSECTION.

8           (4) IF THE COMPLETION DATE OF THE ACCELERATED  
9           REHABILITATIVE DISPOSITION PROGRAM OR A PRETRIAL DIVERSION  
10           PROGRAM SUBSTANTIALLY SIMILAR TO ACCELERATED REHABILITATIVE  
11           DISPOSITION IN ANOTHER JURISDICTION FOR AN OFFENSE UNDER THIS  
12           SECTION OR A SUBSTANTIALLY SIMILAR OFFENSE IN ANOTHER  
13           JURISDICTION IS MORE THAN 10 YEARS PRIOR TO THE DATE OF THE  
14           OFFENSE FOR WHICH THE DEFENDANT IS BEING SENTENCED, A PRIOR  
15           CONVICTION FOR A VIOLATION OF SUBSECTION (A.5) SHALL BE  
16           TREATED AS A PRIOR OFFENSE FOR THE VIOLATION OF SUBSECTION  
17           (A), (A.1), (A.2), (A.3) OR (A.4).

18           \* \* \*

19           (H.1) ACCELERATED REHABILITATIVE DISPOSITION.--

20           (1) BEFORE A DEFENDANT MAY ACCEPT ACCELERATED  
21           REHABILITATIVE DISPOSITION FOR A CHARGE BROUGHT UNDER THIS  
22           SECTION, THE COURT SHALL CONDUCT AN INQUIRY ON THE RECORD TO  
23           ENSURE THAT THE DEFENDANT'S ACCEPTANCE INTO ACCELERATED  
24           REHABILITATIVE DISPOSITION AND WAIVER OF APPLICABLE  
25           CONSTITUTIONAL RIGHTS IS MADE KNOWINGLY, VOLUNTARILY AND  
26           INTELLIGENTLY.

27           (2) IF A DEFENDANT FAILS TO COMPLETE AN ACCELERATED  
28           REHABILITATIVE DISPOSITION OR OTHER FORM OF PRELIMINARY  
29           DISPOSITION AND IS BROUGHT TO TRIAL FOR THE CHARGED OFFENSE,  
30           ANY WAIVER OR ACKNOWLEDGMENT OFFERED OR REQUIRED UNDER THIS

1 SECTION SHALL BE OF NO EFFECT AND SHALL NOT BE USED AGAINST  
2 THE DEFENDANT. NO STATEMENT PRESENTED BY THE DEFENDANT SHALL  
3 BE USED AGAINST THE DEFENDANT FOR ANY PURPOSE IN A CRIMINAL  
4 PROCEEDING EXCEPT A PROSECUTION BASED ON THE FALSITY OF THE  
5 INFORMATION OR STATEMENT SUPPLIED.

6 (H.2) RECORD RETENTION.--

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

10 (2) NOTWITHSTANDING ANY ORDER OF EXPUNGEMENT, THE CLERK  
11 OF COURTS SHALL RETAIN A CERTIFIED COPY OF THE COURT ORDER  
12 EVIDENCING A DEFENDANT HAS SUCCESSFULLY COMPLETED THE PROGRAM  
13 PROVIDED FOR IN THIS SECTION IN ACCORDANCE WITH 18 PA.C.S. §  
14 9122(C) (RELATING TO EXPUNGEMENT). THE FOLLOWING SHALL APPLY:

15 (I) THE ORDER SHALL BE MAINTAINED FOR 12 YEARS  
16 FOLLOWING THE DATE OF THE ENTRY OF THE ORDER.

17 (II) THE ORDER SHALL NOT BE SUBJECT TO PUBLIC  
18 INSPECTION OR DUPLICATION AND SHALL BE USED SOLELY FOR  
19 THE PURPOSE OF FUTURE PROSECUTIONS UNDER SUBSECTION  
20 (A.5).

21 (III) A CLERK OF COURTS SHALL PROVIDE A CERTIFIED  
22 COPY OF THE ORDER TO ANY PROSECUTING ATTORNEY, COURT OR  
23 LAW ENFORCEMENT AGENCY UPON REQUEST.

24 (3) IMMEDIATELY FOLLOWING THE EXPIRATION OF 12 YEARS  
25 FOLLOWING THE ENTRY OF THE ORDER EVIDENCING COMPLETION OF THE  
26 PROGRAM, THE CLERK OF COURTS SHALL EXPUNGE THE RECORD OF THE  
27 COMPLETION OF ACCELERATED REHABILITATIVE DISPOSITION. THE  
28 CLERK OF COURTS SHALL NOT REQUIRE AN ORDER OF COURT TO  
29 EXPUNGE THE RECORD.

30 \* \* \*

1 (N) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
3 SUBSECTION:

4 "ADULT." AN INDIVIDUAL 21 YEARS OF AGE OR OLDER.

5 "MINOR." AN INDIVIDUAL UNDER 21 YEARS OF AGE.

6 "PRIOR OFFENSE." EXCEPT AS PROVIDED UNDER SUBSECTION (D), A  
7 CONVICTION THAT HAS BEEN IMPOSED, ADJUDICATED OR OTHERWISE  
8 PRELIMINARILY DISPOSED BEFORE SENTENCING FOR A VIOLATION OF ANY  
9 OF THE FOLLOWING:

10 (1) AN OFFENSE UNDER SUBSECTION (A), (A.1), (A.2),  
11 (A.3), (A.4) OR (A.5).

12 (2) AN OFFENSE UNDER 75 PA.C.S. § 3802.

13 (3) AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER  
14 PARAGRAPH (1) OR (2) IN ANOTHER JURISDICTION.

15 (4) A COMBINATION OF THE OFFENSES SPECIFIED IN PARAGRAPH  
16 (1), (2) OR (3).

17 SECTION 2. SECTION 9763 OF TITLE 42 IS AMENDED BY ADDING A  
18 SUBSECTION TO READ:

19 § 9763. CONDITIONS OF PROBATION.

20 \* \* \*

21 (E) RESTRICTIVE PROBATION CONDITIONS.--A PERSON WHO RECEIVES  
22 A PENALTY IMPOSED UNDER 30 PA.C.S. § 5502(C.1) (RELATING TO  
23 OPERATING WATERCRAFT UNDER INFLUENCE OF ALCOHOL OR CONTROLLED  
24 SUBSTANCE) FOR A FIRST, SECOND OR THIRD OFFENSE SHALL HAVE  
25 RESTRICTIVE PROBATION CONDITIONS, INCLUDING:

26 (1) HOUSE ARREST WITH ELECTRONIC SURVEILLANCE.

27 (2) PARTIAL CONFINEMENT PROGRAMS, INCLUDING WORK  
28 RELEASE, WORK CAMPS OR HALFWAY FACILITIES.

29 (3) A COMBINATION OF PARAGRAPHS (1) AND (2).

30 SECTION 3. SECTIONS 3803(C) (2) AND 3804(A) (2) INTRODUCTORY

1 PARAGRAPH, (B) (2) INTRODUCTORY PARAGRAPH AND (C) (2) INTRODUCTORY  
2 PARAGRAPH OF TITLE 75, AMENDED DECEMBER 22, 2025 (P.L.363,  
3 NO.58), ARE AMENDED TO READ:

4 § 3803. GRADING.

5 \* \* \*

6 (C) OFFENSES FOLLOWING DIVERSION.--

7 \* \* \*

8 (2) AN INDIVIDUAL WHO VIOLATES SECTION 3802(H) (1) WHERE  
9 THE UNDERLYING OFFENSE IS A VIOLATION OF SECTION 3802(A) (1),  
10 WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL  
11 TESTING UNDER A VALID SEARCH WARRANT, COURT ORDER OR OTHER  
12 BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES  
13 AND THE CONSTITUTION OF PENNSYLVANIA, OR SECTION 3802(C) OR  
14 (D), COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

15 § 3804. PENALTIES.

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

20 \* \* \*

21 (2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A  
22 VIOLATION OF SECTION 3802(H) (1) WITH AN UNDERLYING VIOLATION  
23 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, TO:

24 \* \* \*

25 (B) HIGH RATE OF BLOOD ALCOHOL; MINORS; COMMERCIAL VEHICLES  
26 AND SCHOOL BUSES AND SCHOOL VEHICLES; ACCIDENTS.--EXCEPT AS SET  
27 FORTH IN SUBSECTION (C), AN INDIVIDUAL WHO VIOLATES SECTION  
28 3802(A) (1) WHERE THERE WAS AN ACCIDENT RESULTING IN BODILY  
29 INJURY, SERIOUS BODILY INJURY OR DEATH OF ANY PERSON OR DAMAGE  
30 TO A VEHICLE OR OTHER PROPERTY OR WHO VIOLATES SECTION 3802(B),

1 (E) OR (F) SHALL BE SENTENCED AS FOLLOWS:

2 \* \* \*

3 (2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A  
4 VIOLATION OF SECTION 3802(H) (1) WITH AN UNDERLYING VIOLATION  
5 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, TO:

6 \* \* \*

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

14 \* \* \*

15 (2) FOR A SECOND OFFENSE OR A FIRST OFFENSE FOR A  
16 VIOLATION OF SECTION 3802(H) (1) WITH AN UNDERLYING VIOLATION  
17 OF AN OFFENSE ENUMERATED IN THIS SUBSECTION, TO:

18 \* \* \*

19 Section 2 4. This act shall take effect in 60 days. <--