
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 AND STENDER,
APRIL 15, 2026

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 16, 2026

AN ACT

1 Amending Title 30 (Fish) of the Pennsylvania Consolidated
2 Statutes, in operation of boats, further providing for the
3 offense of operating watercraft under influence of alcohol or
4 controlled substance.

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

7 Section 1. Section 5502(a.5) introductory paragraph, (c) and
8 (c.1)(1)(ii) and (iii), (2)(ii), (iii) and (iv), (3)
9 introductory paragraph, (ii) and (iii) and (5)(ii) introductory
10 paragraph and (iii) of Title 30 of the Pennsylvania Consolidated
11 Statutes are amended and the section is amended by adding a
12 subsection to read:

13 § 5502. Operating watercraft under influence of alcohol or
14 controlled substance.

15 * * *

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

18 (1) An individual may not operate or be in actual

1 physical control of the movement of a watercraft in violation
2 of subsection (a), (a.1), (a.2), (a.3) or (a.4) within 10
3 years after completing an Accelerated Rehabilitative
4 Disposition program or a pretrial diversion program
5 substantially similar to Accelerated Rehabilitative
6 Disposition in another jurisdiction for an offense under this
7 section or a substantially similar offense in another
8 jurisdiction.

9 (2) Any of the following shall constitute sufficient
10 proof that the defendant has, within the last 10 years,
11 completed an Accelerated Rehabilitative Disposition program
12 or a pretrial diversion program substantially similar to
13 Accelerated Rehabilitative Disposition in another
14 jurisdiction for an offense under this section or a
15 substantially similar offense in another jurisdiction:

16 (i) a certified record of the commission;

17 (ii) a record maintained by the clerk of courts; or

18 (iii) a substantially similar record from another
19 jurisdiction.

20 (3) Nothing in this section shall be construed as
21 limiting the introduction of any other competent evidence
22 bearing upon the question of whether the defendant has,
23 within the last 10 years, completed an Accelerated
24 Rehabilitative Disposition program or a pretrial diversion
25 program substantially similar to Accelerated Rehabilitative
26 Disposition in another jurisdiction for an offense under this
27 section or a substantially similar offense in another
28 jurisdiction.

29 [(a.5)] (a.6) Exception to two-hour rule.--Notwithstanding
30 the provisions of subsection (a), (a.1), (a.2) [or], (a.4) or

1 (a.5) where alcohol or controlled substance concentration in an
2 individual's blood or breath is an element of the offense,
3 evidence of such alcohol or controlled substance concentration
4 more than two hours after the individual has operated or been in
5 actual physical control of the movement of the watercraft is
6 sufficient to establish that element of the offense under the
7 following circumstances:

8 * * *

9 (c) Grading.--

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

12 (i) An individual who violates subsection (a) and
13 who has no more than one prior offense commits a
14 misdemeanor for which the individual may be sentenced to
15 a term of imprisonment for not more than six months and
16 to pay a fine under subsection (c.1).

17 (ii) An individual who violates subsection (a) and
18 who has [more than one prior offense] two prior offenses
19 or has one prior offense under subsection (a.5) commits a
20 misdemeanor of the second degree.

21 (iii) An individual who violates this section and
22 has three or more prior offenses or has previously been
23 convicted of a violation of section 5502.1 (relating to
24 homicide by watercraft while operating under influence)
25 commits a felony of the third degree.

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

30 (2) (i) An individual who violates subsection (a) (1)

1 where there was an accident resulting in bodily injury,
2 serious bodily injury or death of any individual or in
3 damage to a watercraft or other property and who has no
4 more than one prior offense commits a misdemeanor for
5 which the individual may be sentenced to a term of
6 imprisonment for not more than six months and to pay a
7 fine under subsection (c.1).

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

13 (iii) An individual who violates subsection (a)(1)
14 where the individual refused testing of [blood or] breath
15 under section 5125 (relating to chemical testing to
16 determine amount of alcohol or controlled substance) or
17 chemical testing of blood pursuant to a valid search
18 warrant and who has no prior offenses commits a
19 misdemeanor for which the individual may be sentenced to
20 a term of imprisonment for not more than six months and
21 to pay a fine under subsection (c.1).

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

27 (v) An individual who violates subsection (a)(1)
28 where there was an accident resulting in bodily injury,
29 serious bodily injury or death of any individual or in
30 damage to a watercraft or other property and who has

1 [more than one prior offense] two prior offenses or has
2 one prior offense under subsection (a.5) commits a
3 misdemeanor of the first degree.

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

7 (vii) An individual who violates subsection (a) (1)
8 where the individual refused testing of [blood or] breath
9 [and who has one or more prior offenses commits a
10 misdemeanor of the first degree.] under section 5125 or
11 chemical testing of blood pursuant to a valid search
12 warrant or who violates subsection (a.2) or (a.3)
13 commits:

14 (A) A misdemeanor of the first degree if the
15 individual has one prior offense.

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

18 (C) A felony of the third degree if the
19 individual has one prior offense under subsection
20 (a.5).

21 (D) A felony of the second degree if the
22 individual has three or more prior offenses.

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

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

29 (ix) An individual who violates this section when a
30 minor under 18 years of age was a passenger in the

1 watercraft when the violation occurred commits [a
2 misdemeanor of the first degree.]:

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

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

8 (3) (i) An individual who violates subsection (a.5)
9 where the underlying offense is a violation of subsection
10 (a), (a.1) or (a.4), commits a misdemeanor for which the
11 individual may be sentenced to a term of imprisonment of
12 not more than six months and to pay a fine under
13 subsection (c.1).

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

17 (c.1) Penalties.--

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

21 * * *

22 (ii) For a second offense or a first offense for a
23 violation of subsection (a.5), to undergo imprisonment
24 for not less than five days and to pay a fine of not less
25 than \$300 nor more than \$2,500 and successfully complete
26 an approved boating safety course.

27 (iii) For a third or subsequent offense or a second
28 or subsequent offense following a conviction for
29 violating subsection (a.5), to undergo imprisonment for
30 not less than ten days and to pay a fine of not less than

1 \$500 nor more than \$5,000 and successfully complete an
2 approved boating safety course.

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

9 * * *

10 (ii) For a second offense or a first offense for a
11 violation of subsection (a.5), to undergo imprisonment
12 for not less than 30 days and to pay a fine of not less
13 than \$750 nor more than \$5,000 and successfully complete
14 an approved boating safety course.

15 (iii) For a third offense or a second or subsequent
16 offense following a conviction for violating subsection
17 (a.5), to undergo imprisonment for not less than 90 days
18 and to pay a fine of not less than \$1,500 nor more than
19 \$10,000 and successfully complete an approved boating
20 safety course.

21 (iv) For a fourth or subsequent offense or a third
22 or subsequent offense following a conviction for
23 violating subsection (a.5), to undergo imprisonment for
24 not less than one year and to pay a fine of not less than
25 \$1,500 nor more than \$10,000 and successfully complete an
26 approved boating safety course.

27 (3) Except as set forth in paragraph (4), an individual
28 who violates subsection (a)(1) and refused testing of [blood
29 or] breath under section 5125 or chemical testing of blood
30 pursuant to a valid search warrant or an individual who

1 violates subsection (a.2) or (a.3) shall be sentenced as
2 follows:

3 * * *

4 (ii) For a second offense or a first offense for a
5 violation of subsection (a.5), to undergo imprisonment
6 for not less than 90 days and to pay a fine of not less
7 than \$1,500 and successfully complete an approved boating
8 safety course.

9 (iii) For a third or subsequent offense or a second
10 or subsequent offense following a conviction for
11 violating subsection (a.5), to undergo imprisonment for
12 not less than one year and to pay a fine of not less than
13 \$2,500 and successfully complete an approved boating
14 safety course.

15 * * *

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

20 * * *

21 (ii) For a second offense or a first offense for a
22 violation of subsection (a.5):

23 * * *

24 (iii) For a third or subsequent offense or a second
25 or subsequent offense following a conviction for
26 violating subsection (a.5), undergo imprisonment for not
27 less than six months nor more than two years.

28 * * *

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