



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

JAY COSTA JR., DEMOCRATIC CHAIRMAN

(717) 787-7683

August 2003

### Senate Considers Changes to DUI Statutes

#### ■ Senate Bill 8 Printer's No. 1111

The legislation, as amended by the Senate, revises the current driving under the influence law to establish a .08% blood alcohol content for a violation of section 3731 of the Vehicle Code. Additionally, the bill moves the ignition interlock provisions to the Vehicle Code and requires that an ignition interlock be installed on all vehicles owned by a DUI offender prior to the restoration of driving privileges when ordered by the court after a first offense and in all cases after a second or subsequent offense of section 3731.

*Current Status—Senate Rules Committee*

#### ■ House Bill 4 Printer's No. 2365

The House of Representatives adopted legislation aimed at overhauling Pennsylvania's driving under the influence statutes. House Bill 4 establishes a tiered system of DUI offenses with an emphasis on drug and alcohol screening and treatment.

First, alcohol limits, penalties and suspension are provided in three tiers beginning at .08% BAC and increasing to .16% BAC. Further, the bill eliminates the "relation back" requirement by making it an offense to drive any vehicle after imbibing a sufficient amount to have a BAC that exceeds the legal limit within three hours of driving.

The bill redefines "prior offenses" to extend the "look back" period from 7 to 10 years for the purposes of determining penalties. A maximum of 150 hours of community service is

permitted for DUI convictions under the bill but may not interfere with treatment.

The bill outlines a new process requiring DUI offenders to comply with treatment as a condition of their sentence. All first-time offenders must be evaluated using Court Reporting Network (CRN) instruments to determine drug and/or alcohol addictions. If it appears likely that the offender is in need of treatment then he or she must undergo a full drug and alcohol assessment. After a full assessment, if the offender is determined to be in need of treatment, the person shall be sentenced to remain under the court's supervision for the maximum statutory period.

The court shall require that the offender comply with the results of the assessment and treatment. The offender must comply with treatment to be eligible for parole following the expiration of the mandatory minimum term of imprisonment. Failure to comply with the treatment program results in possible resentencing to the statutory maximum term of imprisonment corresponding to the level of offense. An offender whose BAC was .16% or higher must undergo a full drug and alcohol assessment regardless of the result of the CRN evaluation.

Accelerated Rehabilitation Disposition (ARD) is not available for offenders with a prior offense in the past 10 years; an accident occurring in the current offense; or if a child under the age of 14 was in the vehicle. ARD can be offered to repeat offenders, but only if the first offense was a violation of 3802(a) Incapable of safe driving.

*(cont. on back)*

#### Costa Bill Clears House Judiciary Committee

Senate Bill 164, Sen. Costa's legislation to extend civil immunity to those who assist crime victims, was reported by the House Judiciary Committee. The legislation amends section 8331.3 of the Judicial Code to incorporate the definitions of "personal injury crime" and "victim" that are used in the Crime Victims Act. By using the definitions of "personal injury crime" and "victim" found in the Crime Victims Act, the legislation expands civil immunity protection to those who come to the aid of victims of crimes such as arson, simple assault, harassment and stalking, homicide by vehicle while driving under the influence of alcohol, aggravated assault by vehicle while driving under the influence of alcohol and homicide by operation of a watercraft while under the influence of alcohol as well as the existing crimes.

*Current Status: House Calendar—Second Consideration*

#### Landlord Tenant Changes Sent to Senate

Senate Bill 92 was amended in the House of Representatives making changes to the eviction period under the Landlord Tenant Act. Under the House amendments, the eviction period will be reduced from 21 days to 11 days. Further, the period for appealing a decision of the district justice and the period between entry of a judgment and eviction will run concurrently.

*Current Status: Senate Rules Committee*

(cont. from front)

**DUI Statutes**

If an offender is accepted into ARD, the following driver license suspensions will apply:

- No license suspension if the person’s BAC is less than .10%
- 30 day suspension of the person’s BAC is .10% to .16%
- 60 day suspension if the person’s BAC is .16% and higher; if the BAC is unknown; or if an accident occurred with the current offense.

**Driver Licensing Provisions:**

- No license suspension for a first conviction with .08 to .099 BAC and/or Incapable of Safe Driving offense.
- 1 year license suspension for all other ungraded misdemeanor offenses.
- 2 year license suspension for all first-degree misdemeanor offenses.
- Occupational Limited Licenses would be permitted for all first offenders.
- Occupational limited licenses would be permitted in the second year of a 24-month license suspension provided that the offender consents to have an ignition interlock installed on the vehicle(s) which they will operate.
- 12 month license suspension for refusing to submit to chemical testing.
- 24 month license suspension for refusing to submit to chemical testing if the person has already been suspended for a prior refusal or if they have been convicted of a DUI.
- Prohibits any use of controlled substances when driving under suspension.
- Reduces the fine from \$1,000 to \$500 and jail time from 90 to 60 days for driving while under an alcohol-related suspension if

no alcohol or controlled substances are found in the person’s system.

- Requires all first and second offenders to attend the Alcohol Highway Safety School under regulations promulgated by PENNDOT.
- Penalties for DUI offenses are staggered and determined by BAC for the current offense and prior DUI offense.

*Current Status—Senate Judiciary Committee*

**Dangerous Juvenile Offender Legislation**

Senate Bill 521 returned to the Senate after amendments in the House of Representatives. The legislation amends Title 42 of the Pennsylvania Consolidated Statutes by adding Chapter 64—Commitment of Sexually Violent Delinquent Children and Young Adults. The procedures apply to a child who was declared delinquent for conduct constituting rape, involuntary deviate sexual intercourse, sexual assault or incest and committed to an institution approved by the Department of Public Welfare.

*Current Status: Signed by Governor—Act 21 of 2003*

**Bills Previously Reported in the Judiciary Review.**

■ **Senate Bill 109  
Printer’s No. 1080**

Authorizing the public disclosure of law enforcement records concerning a minor who has been adjudicated delinquent for an offense that would be graded as a felony and further providing for mandatory sentences for offenses committed with a firearm.

*Current Status—Senate Rules Committee  
Previously Reported—February 2003*

■ **Senate Bill 72  
Printer’s No. 1028**

Further providing for aggravated assault by adding employees of public utilities and electrical cooperatives.

*Current Status—Senate Rules Committee  
Previously Reported—February 2003*

■ **Senate Bill 441  
Printer’s No. 1077**

Further providing for persons authorized to solemnize marriages adding: active, retired or senior bankruptcy judges for the Eastern, Middle or Western District of Pennsylvania; Administrative Judges of the Pennsylvania Utility Commission, Liquor Control Board and administrative agencies of the Commonwealth and the United States Government who are residents of Pennsylvania; and a former mayor of any city or borough who is a resident of Pennsylvania.

*Current Status—Senate Rules Committee  
Previously Reported—March 2003*

**State Senator  
JAY COSTA JR.**  
*Serving the 43rd District*

---

**OFFICES TO SERVE YOU**

**FOREST HILLS**  
1501 Ardmore Blvd. • Suite 403  
Pittsburgh, PA 15221  
(412) 241-6690

**CARRICK**  
2306 Brownsville Road  
Pittsburgh, PA 15210  
(412) 488-6111

**HOMESTEAD**  
314 East 8th Avenue  
Homestead, PA 15120  
(412) 565-7536

**HARRISBURG**  
Senate Box 203043  
Harrisburg, PA 17120-3043  
(717) 787-7683

**E-MAIL**  
costa@dem.pasen.gov

**WEB SITE**  
www.SenatorCosta.com