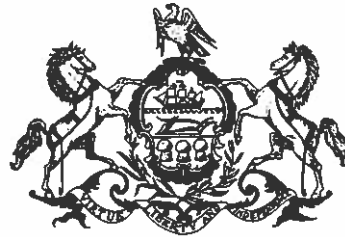


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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

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INTERSTATE RAIL PASSENGER ADVISORY COUNCIL
INTERGOVERNMENTAL AFFAIRS

MEMORANDUM

TO: All Transportation Members

FROM: Rep. Joseph F. Markosek, Majority Chairman
House Transportation Committee

DATE: January 28, 2009

SUBJECT: February 4 Transportation Committee Meeting Notice

Please be advised, the Transportation Committee will hold a Meeting at the Call of the Chair on Wednesday, February 4, 2009, in Room G-50 of the Irvis Office Building. The purpose of this meeting will be to discuss and consider House Bill 67 (Markosek), along with any other business that may come before the Committee. Please note, this will be a voting meeting.

Enclosed for your review, please find a copy and analysis of the aforementioned legislation.

Please notify Amanda Wolfe of your attendance plans as soon as possible by contacting her at (717)783-1012 or awolfe@pahouse.net. If you are unable to attend this event, please submit a leave request form to my office, located in Room 314 of the Irvis Office Building, prior to February 4, 2009.

Enclosures

**HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE**

BILL ANALYSIS

BILL NO: HB0067 PN0067
COMMITTEE: Transportation
DATE: January 28, 2009

SPONSOR: Rep. Markosek

PROPOSAL/EXECUTIVE SUMMARY: This legislation would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, defining "interactive wireless communications device"; further providing for junior driver's license, for learners' permits, and for suspension of operating privilege; prohibiting interactive wireless communication devices; and further providing for accident report forms, for department to compile, tabulate and analyze accident reports, for television equipment and for restraint systems.

EXISTING LAW: Currently, there is no passenger restriction for holders of a learner's permit or licensed junior drivers. Prior to taking the examination for a junior driver's license, a minor must present to the department a certification. Junior drivers are required to present a certification form signed by a parent, guardian, and person in loco parentis or spouse, if married, attesting to the minor's completion of 50 hours of practical driving experience. When any person is convicted of driving 31 miles per hour or more in excess of the speed limit, the department shall require the person to attend a departmental hearing, where the hearing examiner imposes a fifteen day suspension, and, if the driver is a junior licensee, he or she also receives an additional 90 to 120 days for exceeding the posted speed limit in excess of 26 miles per hour.

There is no current restriction on anyone who possesses a learner's permit or driver's license from using an interactive wireless communication device while driving a motor vehicle on a highway or trafficway in this Commonwealth.

Pennsylvania's Department of Transportation does not routinely collect, nor does it annually publish, data specifying whether the use of interactive wireless communications devices contribute to motor vehicle crashes in our Commonwealth.

Currently, no motor vehicle operated on a highway may be equipped with television-type receiving equipment forward of the back of the driver's seat or otherwise visible to the driver, except television-type receiving equipment in a vehicle used exclusively for safety or law enforcement purposes approved by the Pennsylvania State Police or electronic displays used in conjunction with in-vehicle navigation systems.

Failure to wear a properly adjusted and fastened safety seat belt system is a secondary offense in this Commonwealth.

ANALYSIS: House Bill 2674 would amend 75 Pa. C.S. § 102 to include a definition of the term "interactive wireless communications device" as any wireless electronic communications device providing voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages or a laptop computer.

This legislation would amend 75 Pa. C.S. § 1503 to restrict a junior driver to driving a vehicle with no more than one passenger under 18 years of age, except siblings or relatives who live in the same dwelling, with parental or in loco parentis approval. This aspect of the legislation would be known as Lacey's Law in honor of Lacey Gallagher.

Further, 75 Pa. C.S. § 1505 would be amended by adding an additional 15 hours of practical driving experience as a prerequisite to a junior licensee obtaining a license, ten hours of which shall be in the dark and five hours in inclement weather.

75 Pa. C.S. § 1538 would be amended to clarify that a junior licensee who is cited and, subsequently, convicted of speeding in excess of 26 miles per hour over the posted limit will receive only a suspension of 90 to 120 days, depending on whether it is a first or subsequent suspension for exceeding the posted limit.

Title 75 would be amended by adding a § 3316 (relating to prohibiting interactive wireless communication devices) to prohibit holders of learner's permits or junior driver's licenses from using such devices while driving a motor vehicle on a highway or trafficway in this Commonwealth, except when contacting a 511 service or 911 system for obtaining directions or reporting an accident or an emergency.

In addition, § 3752 of Title 75 (relating to accident report forms) would be amended to require written reports to include a delineation of whether or not the driver of a vehicle was using an interactive wireless communications device when an accident occurred and such other information as the department may require.

75 Pa. C.S. § 3753 would be amended to require the department to annually compile and publish a report concerning the use of interactive wireless communication devices in motor vehicles involved in motor vehicle accidents. The relevant data shall also be submitted to the Transportation Committees of the House and Senate.

75 Pa. C.S. § 4527 would be amended to clarify that no motor vehicle shall be equipped with an image display device, video receiving equipment, including a receiver, video monitor, television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications or similar equipment forward of the back of the driver's seat or otherwise visible, directly or indirectly, to the driver while operating the motor vehicle on the highway. In addition to the existing exemption for electronic displays of in-vehicle navigation systems, related traffic, road and weather information are exempted from the general rule. In addition, electronic displays that provide vehicle information related to the driving task or enhance or supplement the driver's view in front of, behind or to the sides of the vehicle or permit the driver to monitor vehicle occupants behind the driver are also exempted from the general prohibition.

Finally, 75 Pa. C.S. § 4581 would be amended to establish the offense of failure to wear a properly adjusted and fastened seat belt system as a primary offense in this Commonwealth for drivers and passengers who are under 18 years of age.

EFFECTIVE DATE: This act shall take effect in 60 days.

PREPARED BY: Robert Mustin, 772-5404.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 67 Session of
2009

INTRODUCED BY MARKOSEK, GEIST, BELFANTI, BOYD, BRENNAN, DALEY,
J. EVANS, HARPER, HESS, HICKERNELL, KORTZ, McCALL, MOUL,
REICHLEY, SCAVELLO, SIPTROTH, K. SMITH, VULAKOVICH, WALKO AND
WATSON, JANUARY 26, 2009

REFERRED TO COMMITTEE ON TRANSPORTATION, JANUARY 26, 2009

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, defining "interactive wireless communications
3 device"; further providing for junior driver's license, for
4 learners' permits and for suspension of operating privilege;
5 prohibiting interactive wireless communications devices; and
6 further providing for accident report forms, for department
7 to compile, tabulate and analyze accident reports, for
8 television equipment and for restraint systems.

9 The General Assembly of the Commonwealth of Pennsylvania
10 declares that the part of this act that limits the number of
11 passengers a junior driver may transport in a motor vehicle at
12 one time may be referred to as Lacey's Law in honor of Lacey
13 Gallagher.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 102 of Title 75 of the Pennsylvania
17 Consolidated Statutes is amended by adding a definition to read:
18 § 102. Definitions.

19 Subject to additional definitions contained in subsequent

1 provisions of this title which are applicable to specific
2 provisions of this title, the following words and phrases when
3 used in this title shall have, unless the context clearly
4 indicates otherwise, the meanings given to them in this section:

5 * * *

6 "Interactive wireless communications device." Any wireless
7 electronic communications device that provides for voice or data
8 communication between two or more parties, including, but not
9 limited to, a mobile or cellular telephone, a text messaging
10 device, a personal digital assistant that sends or receives
11 messages or a laptop computer.

12 * * *

13 Section 2. Sections 1503(c), 1505(e) and 1538(e) of Title 75
14 are amended to read:

15 § 1503. Persons ineligible for licensing; license issuance to
16 minors; junior driver's license.

17 * * *

18 (c) Junior driver's license.--The department may issue a
19 junior driver's license to a person 16 or 17 years of age under
20 rules and regulations adopted by the department and subject to
21 the provisions of this section. A junior driver's license shall
22 automatically become a regular driver's license when the junior
23 driver attains 18 years of age.

24 (1) Except as provided in paragraph (2), no licensed
25 junior driver shall drive a vehicle upon a public highway
26 between 11 p.m. and 5 a.m. unless accompanied by a spouse 18
27 years of age or older, a parent or a person in loco parentis.

28 (2) A licensed junior driver conforming to the
29 requirements of section 1507 (relating to application for
30 driver's license or learner's permit by minor) may drive a

1 vehicle upon a public highway between 11 p.m. and 5 a.m.
2 between the junior driver's home and activity or employment
3 or in the course of the junior driver's activity or
4 employment if the junior driver is a member of a volunteer
5 fire company authorized by the fire chief to engage in
6 fighting fires, is engaged in public or charitable service or
7 is employed and is carrying an affidavit or certificate of
8 authorization signed by the junior driver's fire chief,
9 supervisor or employer indicating the probable schedule of
10 the junior driver's activities. Upon termination of the
11 junior driver's activity or employment, the junior driver
12 shall surrender the affidavit or certificate to the fire
13 chief, supervisor or employer. If the junior driver shall
14 fail to surrender the affidavit or certificate, the employer,
15 fire chief or supervisor shall immediately notify the
16 Pennsylvania State Police.

17 (2.1) Except as set forth in paragraph (2.2), a junior
18 driver may not drive a vehicle with more than one passenger
19 under 18 years of age.

20 (2.2) With parental or in loco parentis approval, a
21 junior driver may drive a vehicle with passengers who are
22 siblings or relatives who live in the same dwelling as the
23 junior driver.

24 (3) In addition to the other provisions of this title
25 relating to the suspension or revocation of operating
26 privileges, in the event that a licensed junior driver is
27 involved in an accident reportable under section 3746(a) for
28 which the junior driver is partially or fully responsible in
29 the opinion of the department or is convicted of any
30 violation of this title, the department may suspend the

1 operating privileges of the junior driver until the junior
2 driver attains 18 years of age or for a period of time not
3 exceeding 90 days.

4 (4) Any junior driver or other person violating any
5 provision of this subsection is guilty of a summary offense.
6 § 1505. Learners' permits.

7 * * *

8 (e) Authorization to test for driver's license and junior
9 driver's license.--A person with a learner's permit is
10 authorized to take the examination for a regular or junior
11 driver's license for the class of vehicle for which a permit is
12 held. Before a person under the age of 18 years may take the
13 examination for a junior driver's license, the minor must:

14 (1) Have held a learner's permit for that class of
15 vehicle for a period of six months.

16 (2) Present to the department a certification form
17 signed by the father, mother, guardian, person in loco
18 parentis or spouse of a married minor stating that the minor
19 applicant has completed [50] 65 hours of practical driving
20 experience, including no less than ten hours of nighttime
21 driving and five hours of inclement weather driving,
22 accompanied as required under subsection (b). Submission of a
23 certification shall not subject the parent, guardian, person
24 in loco parentis or spouse of a married minor to any
25 liability based upon the certification.

26 (3) Have the certification form completed when the minor
27 is ready for the licensing examination. The certification
28 form shall be developed by the department and will be
29 provided by the department when the original application for
30 a learner's permit is processed. The department will make

1 this form readily available through the mail or electronic
2 means.

3 * * *

4 § 1538. School, examination or hearing on accumulation of
5 points or excessive speeding.

6 * * *

7 (e) Additional suspension of operating privilege.--

8 (1) In addition to any other provisions of law relating
9 to the suspension or revocation of operating privileges, a
10 person's operating privileges shall be suspended under any of
11 the following circumstances:

12 (i) Prior to reaching age 18, the person violates
13 section 3362 (relating to maximum speed limits) by
14 traveling 26 miles per hour or more over the posted speed
15 limit and the violation results in a conviction, guilty
16 plea or plea of no contest before or after the person
17 reaches age 18.

18 (ii) The person accumulates six or more points under
19 the provisions of section 1535 (relating to schedule of
20 convictions and points) and the violations resulting in
21 points accumulation were committed before the person
22 reached age 18.

23 (2) The first suspension under paragraph (1) shall be
24 for a period of 90 days with every subsequent suspension
25 under paragraph (1) to be for a period of 120 days.
26 Suspensions under paragraph (1) shall be imposed
27 consecutively to each other and to any other suspension. A
28 suspension under paragraph (1) shall be considered a
29 subsequent suspension even if it is imposed contemporaneously
30 with a first suspension imposed under paragraph (1). A

1 suspension under this paragraph shall be in lieu of a
2 suspension under subsection (d)(1).

3 Section 3. Title 75 is amended by adding a section to read:
4 § 3316. Prohibiting interactive wireless communications
5 devices.

6 (a) Drivers subject to restriction.--No driver with a
7 learners' permit or junior driver's license shall drive a motor
8 vehicle on a highway or trafficway in this Commonwealth while
9 using an interactive wireless communications device.

10 (b) Exceptions.--This section shall not apply to persons who
11 use an interactive wireless communications device to contact a
12 511 service or 911 system for the purpose of reporting an
13 accident or an emergency or obtaining directions.

14 (c) Seizure.--The provisions of this section shall not be
15 construed as authorizing the seizure or forfeiture of an
16 interactive wireless communications device, unless otherwise
17 provided by law.

18 (d) Penalty.--A person who violates subsection (a) commits a
19 summary offense and shall, upon conviction, be sentenced to pay
20 a fine of \$100.

21 (e) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "511" or "511 service." Three-digit telecommunications
25 dialing to access an intelligent transportation system traveler
26 information service provided in this Commonwealth in accordance
27 with the Federal Communications Commission and the United States
28 Department of Transportation.

29 "911." The number used by a public agency located in whole
30 or in part within this Commonwealth authorized by law to provide

1 emergency telephone service to access firefighting, law
2 enforcement, ambulance, emergency medical or other emergency
3 services.

4 Section 4. Section 3752(a) of Title 75 is amended to read:
5 § 3752. Accident report forms.

6 (a) Form and content.--The department shall prepare and upon
7 request supply to all law enforcement agencies and other
8 appropriate agencies or individuals, forms for written accident
9 reports as required in this subchapter suitable with respect to
10 the persons required to make the reports and the purposes to be
11 served. The written report forms shall call for sufficiently
12 detailed information to disclose with reference to a vehicle
13 accident the cause, conditions then existing and the persons and
14 vehicles involved[.], including whether the driver of the
15 vehicle was using an interactive wireless communications device
16 when the accident occurred, and such other information as the
17 department may require. Reports for use by the drivers and
18 owners shall also provide for information relating to financial
19 responsibility.

20 * * *

21 Section 5. Section 3753 of Title 75 is amended by adding a
22 subsection to read:

23 § 3753. Department to compile, tabulate and analyze accident
24 reports.

25 * * *

26 (b.1) Report on interactive wireless communications
27 devices.--The department shall annually compile and make
28 available to the public information submitted on an accident
29 report concerning interactive wireless communications devices in
30 motor vehicles involved in traffic accidents. The report shall

1 note whether the driver of the motor vehicle was using an
2 interactive wireless communications device when the accident
3 occurred. The data shall be included in a report submitted to
4 the Transportation Committee of the Senate and the
5 Transportation Committee of the House of Representatives.

6 * * *

7 Section 6. Sections 4527 and 4581(a) and (b) of Title 75 are
8 amended to read:

9 § 4527. [Television] Video receiving equipment.

10 (a) General rule.--[No] Except as provided in subsection
11 (c), no person shall drive a motor vehicle [operated on a
12 highway shall be] equipped with [television-type] any image
13 display device, video receiving equipment, including a receiver,
14 a video monitor or a television or video screen capable of
15 displaying a television broadcast or video signal that produces
16 entertainment or business applications or similar equipment
17 which is located in the motor vehicle at any point forward of
18 the back of the driver's seat [or otherwise], or which is
19 visible, directly or indirectly, to the driver while operating
20 the motor vehicle.

21 (a.1) Except as provided in subsection (b), no person may
22 install in a motor vehicle an image display device intended to
23 be visible to a driver in the normal driving position when the
24 vehicle is in motion and when restrained by the safety seat belt
25 system adjusted in accordance with the manufacturer's
26 recommendations.

27 (b) Exception.--This section shall not apply to the
28 following:

29 (1) [Television-type receiving equipment] Image display
30 devices in a vehicle used exclusively for safety or law

1 enforcement purposes as approved by the Pennsylvania State
2 Police.

3 (2) [Electronic displays] Image display devices used in
4 conjunction with in-vehicle navigation systems, related
5 traffic, road and weather information.

6 (3) Image display devices that provide vehicle
7 information related to the driving task or to enhance or
8 supplement the driver's view forward, behind or to the sides
9 of the motor vehicle or permit the driver to monitor vehicle
10 occupants behind the driver.

11 (4) Image display devices that do not display images to
12 the driver while the vehicle is in motion.

13 (5) Image display devices which display an image while a
14 vehicle is parked.

15 (c) Definitions.--As used in this section, the term "image
16 display device" means equipment capable of displaying to the
17 driver of the motor vehicle:

18 (1) a broadcast television image; or

19 (2) a visual image, other than text, from a digital
20 video disc or other storage device.

21 § 4581. Restraint systems.

22 (a) Occupant protection.--

23 (1) Any person who is operating a passenger car, Class I
24 truck, Class II truck, classic motor vehicle, antique motor
25 vehicle or motor home and who transports a child under four
26 years of age anywhere in the motor vehicle, including the
27 cargo area, shall fasten such child securely in a child
28 passenger restraint system, as defined in subsection (d).
29 This subsection shall apply to all persons while they are
30 operators of motor vehicles where a seating position is

1 available which is equipped with a seat safety belt or other
2 means to secure the systems or where the seating position was
3 originally equipped with seat safety belts.

4 (1.1) Any person who is operating a passenger car, Class
5 I truck, Class II truck, classic motor vehicle, antique motor
6 vehicle or motor home and who transports a child four years
7 of age or older but under eight years of age anywhere in the
8 motor vehicle, including the cargo area, shall fasten such
9 child securely in a fastened safety seat belt system and in
10 an appropriately fitting child booster seat, as defined in
11 subsection (d). This paragraph shall apply to all persons
12 while they are operators of motor vehicles where a seating
13 position is available which is equipped with a seat safety
14 belt or other means to secure the systems or where the
15 seating position was originally equipped with seat safety
16 belts. [A conviction under this paragraph by State or local
17 law enforcement agencies shall occur only as a secondary
18 action when a driver of a motor vehicle has been convicted of
19 violating any other provision of this title.]

20 (2) [Except for children under eight years of age and
21 except as provided in paragraphs (1) and (1.1), each]

22 (i) The driver [and front seat occupant] of a
23 passenger car, Class I truck, Class II truck or motor
24 home operated in this Commonwealth shall [wear] secure or
25 cause to be secured in a properly adjusted and fastened
26 safety seat belt system the driver and every vehicle
27 occupant between eight years of age and 18 years of age.

28 [A conviction under this paragraph by State or local law
29 enforcement agencies shall occur only as a secondary
30 action when a driver of a motor vehicle has been

1 convicted of any other provision of this title. The
2 driver of a passenger automobile shall secure or cause to
3 be secured in a properly adjusted and fastened safety
4 seat belt system any occupant who is eight years of age
5 or older and less than 18 years of age.]

6 (ii) Except for children under 18 years of age and
7 except as provided in paragraphs (1) and (1.1) and
8 subparagraph (i), each driver and front seat occupant of
9 a passenger car, Class I truck, Class II truck, classic
10 motor vehicle, antique motor vehicle or motor home
11 operated in this Commonwealth shall wear a properly
12 adjusted and fastened safety seat belt system.

13 (iii) This paragraph shall not apply to:

14 [(i)] (A) A driver or front seat occupant of any
15 vehicle manufactured before July 1, 1966.

16 [(ii)] (B) A driver or front seat occupant who
17 possesses a written verification from a physician
18 that he is unable to wear a safety seat belt system
19 for physical or medical reasons, or from a
20 psychiatrist or other specialist qualified to make an
21 informed judgment that he is unable to wear a safety
22 seat belt system for psychological reasons.

23 [(iii)] (C) A rural letter carrier while
24 operating any motor vehicle during the performance of
25 his duties as a United States postal service rural
26 letter carrier only between the first and last
27 delivery points.

28 [(iv)] (D) A driver who makes frequent stops and
29 is traveling less than 15 miles per hour for the
30 purpose of delivering goods or services while in the

1 performance of his duties and only between the first
2 and last delivery points.

3 A violation of this paragraph shall not be subject to the
4 assessment of any points under section 1535 (relating to
5 schedule of convictions and points).

6 (3) A driver who is under 18 years of age may not
7 operate a motor vehicle in which the number of passengers
8 exceeds the number of available safety seat belts in the
9 vehicle.

10 (b) Offense.--Anyone who fails to comply with the provisions
11 of subsection (a)(1) or (1.1) shall be guilty of a summary
12 offense with a maximum fine of \$100. The court imposing and
13 collecting any such fines shall transfer the fines thus
14 collected to the State Treasurer for deposit in the Child
15 Passenger Restraint Fund, pursuant to section 4582 (relating to
16 Child Passenger Restraint Fund). Anyone who violates subsection
17 (a)(2) or (3) commits a summary offense and shall, upon
18 conviction, be sentenced to pay a fine of \$10. No person shall
19 be convicted of a violation of subsection [(a)(2)] (a)(2) or (3)
20 unless the person is also convicted of another violation of this
21 title which occurred at the same time. No costs as described in
22 42 Pa.C.S. § 1725.1 (relating to costs) shall be imposed for
23 summary conviction of subsection (a)(2) or (3). Conviction under
24 this subsection shall not constitute a moving violation.

25 * * *

26 Section 7. This act shall take effect in 60 days.