

Pennsylvania's Ignition Interlock Limited License – Expanded and Remodeled

Driving privileges (Ignition Interlock Limited Licenses “IILL”) may be restored to those who face DUI – related suspensions. Act 33 of 2016 has been signed into law in Pennsylvania on May 25, 2016 making Ignition Interlock Limited Licenses available effective August 25, 2017. This enactment provides for the issuance of operating privileges to those facing DUI – related suspensions.

The Ignition Interlock framework pre-August 25, 2017 would only permit driving with an Ignition Interlock Restricted License after the DUI – related suspension was served. The Ignition Interlock Restricted License would last one year before an unrestricted license would issue. An Ignition Interlock Restricted License is one that restricts the person to only drive, operate or be in actual physical control of any motor vehicle equipped with an Ignition Interlock system¹.

Act 33 does not remove the Ignition Interlock mandates that would be applicable to those who apply for a restricted license after a DUI/refusal based suspension had concluded but does except those individuals who meet all of the following conditions:

- (1) Is subject to the penalties under Section 3804 (a)(1)(relating to penalties)(General Impairment).
- (2) Has not had a prior offense, as defined under Section 3806 (relating to prior offenses).

The 2017 Ignition Interlock mandate now provides that for any period where one holds an IILL it shall be counted towards satisfaction of any mandatory period of Ignition Interlock arising from the same incident. What this means is that instead of following a DUI – related suspension of

¹ A system approved by the department which prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level less than 0.025%.

one year or longer, one need not necessarily serve an additional one year subject to the Ignition Interlock mandate before he or she can apply for an unrestricted license. The fact that an Ignition Interlock Limited License is issued and the driver can prove that the Ignition Interlock Limited License was completed and he/she produces a certification from the vendor of the Ignition Interlock system that the individual has complied with its requirements means that he may be permitted the issuance of an unrestricted license if otherwise eligible. What this means is that instead of following a DUI – related suspension of one year or longer, one need not necessarily serve an additional one year subject to the Ignition Interlock mandate before he or she can apply for an unrestricted license.

The modifications ushered in by Act 33 will now extend to DUI – ARD based suspensions effective October 20, 2018. Specifically, where one is suspended due to a term and condition of an ARD Order such individual may apply, and if otherwise qualified, be issued an Ignition Interlock Limited License for such suspension. The practicality of seeking such privileges for typically a suspension lasting months instead of years may have to factor in the costs of installation, maintenance, removal and \$65.00 application fee due with the Application.

The provision of the Vehicle Code that outlines eligibility and the Application processing is set forth in 75 Pa.C.S. §1556 which prohibits issuing of an Ignition Interlock Limited License to those falling into the following categories:

- (1) not licensed to drive in Pennsylvania;
- (2) for those required to take an examination under the Vehicle Code and have not passed;
- (3) where operating privileges have been recalled or cancelled;

- (4) individual has an unsatisfied judgment as a result of a motion vehicle operation except for those deemed to have satisfied same or have an installment agreement entered coupled with proof of financial responsibility;
- (5) applicants for an Ignition Interlock Limited License to operate a commercial motor vehicle;
- (6) individuals PennDOT disqualified from issuing an Ignition Interlock Limited License under the Commercial Motor Vehicle Safety Act of 1986 or the Motor Carrier Safety Improvement Act of 1999;
- (7) any individual who has been suspended due to homicide by vehicle or relating to homicide by vehicle while driving under the influence.

While many Non-CDL license holders who had a valid license at the time of suspension will likely survive such screening, the critical assessment turns on the suspension eligibility which essentially classifies those who are subject for a suspension due to a refusal or a DUI – related suspension. The following table lists the number of months of suspension one first must serve prior to being deemed eligible:

Effective October 20, 2018*

DUI Offense Conviction	Number of Prior Offenses	Length of Suspension	Number of Months Suspension Must Serve Before Eligible
<u>General Impairment</u>	0	12 months	6 months
	1	12 months	6 months
	≥2	12 months	6 months
<u>High Rate</u>	0	12 Months	Immediate
	1	18 Months	6 Months
	2	18 Months	9 Months
	≥3	18 Months	9 Months
<u>Highest Rate</u>	0	12 Months	Immediate
	1	18 Months	9 Months
	≥2	18 Months	9 Months

<u>ARD</u>	N/A	Varies	Immediate
	Prior Refusal Suspensions		
<u>Refusal</u> (75 Pa.C.S.§1547)	0	12 Months	6 Months
	≥1	18 Months	9 Months

*List is partial representing a summary of Act 33’s implementation. Prior to relying on the charts impact in determining their eligibility, you may consult Fox and Fox Attorneys at Law, P.C.

For those subject to a suspension based upon an ARD Order, there is no deemed period of suspension that one must first serve and one can be viewed as eligible for the duration of the suspension which could be considered as not resulting in any prohibition of driving when one is subject to an ARD but simply a restricted driving privileges after which he/she may be eligible for restoration of full privileges. Act 30 of 2017 has served to expand the use of IILL’s to those subject to the reduced suspensions associated with ARD orders with such provision effective October 20, 2018.

The critical role of timing for the issuance of the Ignition Interlock Limited License commences with the receipt of an Official Notice imposing the suspension. From the time of its receipt one will be expected to satisfy the requirements of the IILL Petition (DL-9108) including fulfilling the financial obligation to the court as well as securing the documentation from the vendor (DL-9108 SC) certifying the motor vehicles to be equipped with the Ignition Interlock system are so equipped within the timeframe preceding the effective date of the suspension and required surrender of the driver’s license. The Petition filing can only be processed through the United States Postal Service via Certified Mail with the processing time set by statute not to exceed twenty (20) days. Given the necessary processing time and the lag from the point that PennDOT approves an Application and issues an Ignition Interlock Limited License one can appreciate that becoming “eligible” and being able to drive with an Ignition Interlock Limited License do not coincide (the applicant will receive a card to take to PennDOT to obtain the photo

Ignition Interlock Limited License may range up to weeks or longer). A key beyond the eligibility criteria therefore is minimizing the delay prior to issuance.

Seeking legal representation in connection with pending charges or PennDOT actions potentially resulting in suspension/revocation will help minimize any misapprehension of the eligibility timing and unaccounted for delays in the processing time for an Ignition Interlock Limited License especially where it is a new procedure for most and one's opportunity for its issuance is subject to PennDOT's proficiency in granting properly submitted applications.

Attorneys who are experienced in DUI related fields of law can best advise on such options that may make the consequences of DUI related events less onerous. The attached link will direct you to a search tool of approved Ignition Interlock vendors in your area;

<http://padui.org/ignition-interlock-vendor-list/>.

The expanded right to apply for an Ignition Interlock Limited License is a significant new feature for those who are subject to DUI – based suspensions. Such licenses no longer will restrict the destination of licensees as had been the case with Occupation Limited Licenses which have been eliminated for DUI – based suspensions. The potential features for restored privileges under the recent enactments affecting those who are, or potentially, subject to DUI – related suspensions should be evaluated as it pertains to each individual and this article does not serve to provide legal advice as one should consult an attorney for their specific fact pattern. The firm of Fox and Fox Attorneys at Law, P.C., may be contacted for questions regarding DUI representation, license related issues or if representation is sought.