

New GDL Laws

Enforcing Pennsylvania's Graduated Driver Licensing and Passenger Restraint Laws – Legal and Practical Advice

In October of 2011, Pennsylvania joined a growing number of states by enacting a scheme of Graduated Driver Licensing (GDL). The legislation (Act 81) limits the number of passengers inexperienced drivers may carry. It also requires drivers under 18 years of age and their passengers under 18 to use seat belts/passenger restraints. For drivers under 18, seat belt use is now mandatory. It is NOT a secondary offense.

Nationwide, traffic crashes are the leading cause of teenagers' deaths. Inexperienced drivers, unrestrained passengers, and in-car distractions are a deadly combination. There is no question that lives will be saved by enforcing Pennsylvania's new law. The question we need to ask ourselves is "how best can we protect our kids from becoming another statistic?" Here are some suggestions to help with this effort: ***The standard for a traffic stop under this law is reasonable suspicion, not probable cause.*** In *Commonwealth v. Chase*, 960 A.2d 108 (Pa. 2008) the Pennsylvania Supreme Court approved Section 6308(b) of the Vehicle Code, which permits an officer to stop a vehicle if s/he possesses reasonable suspicion of a violation. The *Chase* opinion goes on to explain that the reasonable suspicion standard applies where the stop will serve an "investigative purpose."

The Superior Court, in *Commonwealth v. Feczko*, 10 A.3d 1285 (Pa. Super. 2010), expanded upon the decision in *Chase*. The *Feczko* decision states that certain offenses will still require probable cause to support a traffic stop, since a stop for these offenses (such as speeding, failure to stop at a stop sign) will not produce any additional "investigative" information. Officers and prosecutors should both agree that under *Chase* and *Feczko*, the proper standard for a traffic stop for suspected Act 81 violations is reasonable.

If an officer observes an unbelted driver or passenger in a car full of youths who appear to be high-school age, this observation can provide reasonable suspicion of an Act 81 violation. Additional information is needed, however, for the officer to know whether a violation has occurred. The traffic stop will serve the "investigative purpose" of determining whether the driver and/or passengers are under the age of 18, and subject to more stringent requirements. ***All passengers of a validly-stopped vehicle are subject to the investigative detention, not just the driver.*** As long as the traffic stop is valid, the officer may ask passengers for identification, as well. Two cases illustrate this principle, *Commonwealth v. Campbell*, 862 A.2d 659 (Pa. Super. 2004), and *Commonwealth v. Reed*, 19 A.3d 1163 (Pa. Super. 2011).

In *Campbell*, a passenger claimed his 4th Amendment rights were violated when he was asked to identify himself during a traffic stop. The Superior Court disagreed. In *Reed*, a passenger claimed his 5th Amendment rights were violated when he was asked to identify himself during a traffic stop. Again, the Superior Court disagreed. By asking passengers to identify themselves, the officer can determine whether Act 81 violations are being committed, by the driver and/or passengers.

Most officers already know where teen drivers are likely to be found. When asked why he robbed banks, Willie Sutton supposedly said "because that's where the money is." This logic applies to Act 81 enforcement efforts. High schools and school activities such as dances and athletic events will be populated by youthful drivers. Officers may wish to patrol these locations at peak driving times. Will every youthful-looking driver or passenger at these events be subject to Act 81? Maybe not. But, the chances of drivers and passengers being under 18 are certainly higher at these locations than, say, at the parking lot of a home-improvement store.

Officers in smaller municipalities may already know whether teen drivers are subject to Act 81. Patrol officers in less-populated jurisdictions may have an advantage in enforcing the GDL. An officer familiar with the kids on a patrol route is likely to know when someone turns 16, and 18. The officer may very well recognize younger drivers' vehicles. Departments in such areas may wish to alert the parents of new drivers that enforcement efforts are in place. An ounce of prevention may well be worth a pound of cure.

Even in larger areas, kids still act like kids. Even if a traffic stop is *not* based on suspicion of an Act 81 violation, officers should keep the law in mind. Youthful drivers tend to speed, and make mistakes that more experienced drivers have learned to avoid. When investigating other traffic violations, don't forget that Act 81 may apply to drivers and/or passengers.

Do the right thing, for the right reasons. Most of us know of a teenager who died as a result of inexperienced driving. Actively enforcing Act 81 is an opportunity for officers to interact with kids who drive, and an opportunity to prevent additional tragedies. How an officer approaches a traffic stop and communicates with the occupants of a vehicle can have a lasting impression on young people. Explain why you've stopped the car, and what you intend to do. Kids may be respectful, they may be intimidated, or they may be rude and ignorant. Nonetheless, if the officer has a reasonable suspicion that an Act 81 violation is occurring, s/he is legally permitted to conduct a traffic stop. And if kids know that they stand the chance of being stopped, they're more likely to comply with the law. And fewer kids will die in traffic crashes.