

**CHAPTER 94. ALCOHOL HIGHWAY SAFETY SCHOOLS AND
DRIVING UNDER THE INFLUENCE PROGRAM COORDINATORS**

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Authority

The provisions of this Chapter 94 issued under the Vehicle Code, 75 Pa.C.S. §§ 1549 and 6103, unless otherwise noted.

Source

The provisions of this Chapter 94 adopted December 8, 2006, effective December 9, 2006, 36 Pa.B. 7457, unless otherwise noted.

§ 94.1. Purpose.

The purpose of this chapter is to implement 75 Pa.C.S. § 1549(b) (relating to establishment of schools), which requires every county, multicounty judicial district, or group of counties combined under a single DUI program to establish and maintain a course of instruction regarding the problems associated with alcohol or controlled substance use and driving.

§ 94.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AHSCS—Alcohol Highway Safety Countermeasure System—A system of deterrence, prevention and intervention strategies used in combination with drug and alcohol treatment programs and legal sanctions to combat DUI.

AHSS—Alcohol Highway Safety School—A structured educational program with a standardized curriculum to teach DUI offenders about the problems of alcohol and drug use and driving, attendance at which is mandatory for all convicted DUI first and second offenders and for every person placed on ARD

or other preliminary disposition as a result of an arrest for violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

ARD—Accelerated Rehabilitative Disposition—A pretrial diversion program which offers a person arrested for DUI the opportunity to earn dismissal of the charges, provided the person agrees to certain conditions.

Alcohol—Ethanol or ethyl alcohol.

CRN—Court Reporting Network—A uniform prescreening evaluation procedure for all DUI offenders to aid and support clinical treatment recommendations offered to the judiciary, prior to sentencing.

Controlled substance—Any substance so defined or classified under:

- (i) The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).
- (ii) Section 102(6) of the Controlled Substance Act (21 U.S.C.A. § 802(6)).
- (iii) 21 CFR Part 1308.11—1308.15 (relating to schedules of controlled substances).
- (iv) Any revisions to subparagraph (ii) or (iii) which are published by the Department of Health as notices in the *Pennsylvania Bulletin*.

DUI—Driving under the influence—Driving, operating or being in actual physical control of the movement of any vehicle while under the influence of alcohol or any controlled substance to a degree which renders the person incapable of safe driving as prohibited and punishable under 75 Pa.C.S. §§ 3802, 3803 and 3804 (relating to driving under influence of alcohol or controlled substance; grading; and penalties).

DUI program coordinator—An individual who serves as the liaison between a county, multicounty judicial district, or group of counties combined under a single DUI program and the Department of Transportation or its designee.

Department—The Department of Transportation of the Commonwealth.

§ 94.3. General requirements and objectives.

(a) *General requirements.* Each county, multicounty judicial district, or group of counties combined under a single DUI program shall establish and maintain an AHSS which provides a course of instruction regarding problems associated with the use of alcohol and controlled substances, and driving. The school program must include the following:

- (1) A uniform curriculum as further prescribed by § 94.5 (relating to curriculum), which has an objective to educate students concerning the following:
 - (i) The relationship of the use of alcohol or controlled substances, or both, to highway safety.
 - (ii) The effects of the use of alcohol or controlled substances, or both, on social relationships and the family.

(iii) The effects of the use of alcohol or controlled substances, or both, on economic functioning.

(iv) The availability of alcohol and substance abuse programs and counseling.

(2) AHSS instructors who are trained, certified and recertified as prescribed in § 94.10 (relating to AHSS instructor qualification, selection, certification and recertification).

(3) A means of notifying all AHSS students, both orally and in writing, of the provisions of 75 Pa.C.S. § 1543(b) (relating to driving while operating privileges are suspended or revoked).

(4) A DUI program coordinator as specified in § 94.12 (relating to DUI program coordinators).

(5) Classroom space that is conducive to learning, and which is of adequate size to accommodate a maximum of 50 people. The maximum number of students per class may not exceed 25. A building that houses an AHSS classroom must have all of the appropriate local certificate of occupancy permits.

(b) *Objectives.* The AHSS shall provide students with a basic knowledge and understanding of alcohol and controlled substances and their effects on metabolism and judgment, alcoholism and drug addiction, as well as highway safety, to encourage a positive change in the students' attitude concerning driving under the influence of alcohol or a controlled substance.

§ 94.4. Mandatory attendance.

A person convicted of a first or second offense violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), or placed on ARD or other preliminary disposition as a result of an alleged violation of 75 Pa.C.S. § 3802, shall be required to attend, pay all costs and successfully complete an approved AHSS program whether it be as a part of sentencing, as a condition of parole or probation or as a part of ARD, in accordance with 75 Pa.C.S. § 3807 (relating to accelerated rehabilitative disposition).

§ 94.5. Curriculum.

(a) The AHSS curriculum must consist of a minimum of 12 1/2 hours of instruction and include the following core components:

(1) *Component one.* Component one must introduce the course content, rules, regulations and requirements for successful completion. Administration of the knowledge inventory and an overview of the Commonwealth's health/legal approach to implementation of an AHSCS shall be presented. The instructional objectives must include:

(i) Providing an understanding of the purpose of the AHSS.

(ii) Explaining the rules, regulations and expectations to the participants for successful completion of the program, as well as the consequences of failure to comply with the rules.

(iii) Creating a classroom environment that fosters active participation and appropriate structure.

(iv) Providing an understanding of the Pennsylvania AHSCS.

(v) Explaining the role of AHSS as a part of the AHSCS.

(vi) Examining Pennsylvania laws regarding DUI.

(vii) Establishing the relationship between driving after drinking alcohol or using drugs, and automobile crashes.

(viii) Providing, in accordance with § 94.9 (relating to notification of possible fine and imprisonment), oral and written notice of the provisions of 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked)

(2) *Component two.* Component two must address basic drug and alcohol information. How drugs and alcohol affect the human body should be presented in an uncomplicated manner. Information about alcohol and drugs that are more frequently combined with driving shall be emphasized during this component. The instructional objectives must include:

(i) Understanding the physiological process of drug and alcohol absorption, metabolism and elimination.

(ii) Examination of the effects of drugs and alcohol on the central nervous system, judgment, muscular control and vision.

(iii) Explanation of behavioral changes associated with the consumption of alcohol and various drugs.

(iv) Description of tests for determining the presence of alcohol and drugs in the human body.

(3) *Component three.* The instructional objectives for this component must include:

(i) Examination of how alcohol and drug use affects driving skills.

(ii) Recognition that a DUI arrest may be a warning sign of a substance abuse problem.

(iii) Understanding the characteristics of alcohol and drug abuse and addiction.

(4) *Component four.* The instructional objectives for this component must include:

(i) Recognition of the impact of a DUI arrest on family, employment and friends.

(ii) Understanding the disruption that alcohol and drug abuse has on one's lifestyle.

(iii) Recognition of the value of family as a support system.

(iv) Identification of local drug and alcohol counseling and treatment services.

- (v) Recognition of the importance of alcohol and drug abstinence for some individuals.
- (5) *Component five.* The instructional objectives for this component must include:
 - (i) Identification of realistic steps to prevent a future DUI.
 - (ii) Measurement of any knowledge gained or attitudinal changes among participants since the inception of the class.
 - (iii) Reinforcement of the purpose, availability and locale of treatment and counseling services.
 - (iv) Provision of an opportunity to evaluate the AHSS and the instructor.

Cross References

This section cited in 67 Pa. Code § 94.7 (relating to conduct of courses); and 67 Pa. Code § 94.10 (relating to AHSS instructor qualification, selection, certification and recertification).

§ 94.6. AHSS approval; revocation and refusal of approval.

(a) *General requirement.* Prior to the operation of an AHSS, the DUI program coordinator or the coordinator's designee shall apply to the Department or its designee, for a letter of approval for each AHSS in the county, multicounty judicial district, or group of counties combined under a single DUI program.

(1) An AHSS which is fully operational on December 9, 2006, shall be permitted 12 months from that date to obtain a letter of approval.

(2) An AHSS must comply with all of the requirements of this chapter to receive a letter of approval. Failure to comply will result in notification to the appropriate court officials, including the president judge and the court administrator, of the failure to comply.

(3) Application for a letter of approval shall be made using forms and procedures prescribed by the Department or its designee.

(b) *Expiration of approval.* The approval of an AHSS will expire 24 months from the date of issuance of the approval letter, unless a request to renew a letter of approval is filed by the DUI program coordinator or the coordinator's designee 6 months prior to the lapse.

(c) *Entry and inspection.* The Department or its designee, will have the right to enter upon the premises and inspect an AHSS at any time for the purpose of determining compliance with this chapter.

(1) The AHSS shall retain attendance rolls, student test records and instructor qualification records for 5 years.

(2) The Department will have access to all records of the AHSS, including other student records provided that disclosure of those records to the Department is not precluded by order of court or applicable laws such as those providing for the confidentiality of medical information.

(d) *Revocation or refusal.* The Department or its designee may, by written notification to the AHSS, revoke or refuse to issue a letter of approval to operate an AHSS for any of the following:

(1) Failure to comply with any provision of this chapter.

(2) Failure to comply with a directive issued by the Department or its designee following an onsite inspection of an AHSS.

(3) Failure to comply with a directive issued by the Department or its designee as a condition of approval or renewal of a letter of approval.

(e) *Corrective measures.* Each county, multicounty judicial district, or group of counties combined under a single DUI program shall have 6 months to satisfy directives or conditions issued by the Department or its designee to meet approval to operate an AHSS.

(f) *No operation without approval.* An AHSS may not operate without a currently valid letter of approval from the Department, except as specified in this section or as otherwise directed, in writing, by the Department.

§ 94.7. Conduct of courses.

(a) *Attendance.* AHSS students shall complete the AHSS classroom instruction, as described in § 94.5 (relating to curriculum).

(b) *Repeating AHSS courses.* AHSS students shall repeat the entire AHSS curriculum if they do not satisfy the requirements of subsection (a), except that, with approval of the AHSS instructor, a student may be excused for one component, but not the first component. A student excused from attendance at a component will be required to attend that component during the next available AHSS. If the student fails to attend that component at the subsequent AHSS, the student will be required to repeat the entire curriculum.

(c) *Scheduling.* Whenever possible, AHSS classes will be scheduled at times that do not conflict with the work schedules of the majority of the students, with classes scheduled for evenings and weekends, if appropriate.

(d) *Break periods.* Each component of AHSS classroom instruction will have a 15-minute break period or recess, which may not be counted toward the 12 1/2 hour requirement.

§ 94.8. Student records.

The DUI program coordinator or the coordinator's designee shall keep a complete student record on file for every student attending an AHSS.

(1) *Content of student records.* A student record must include:

(i) A summary of fees remitted or payments made in conjunction with the AHSS.

(ii) A record of the student's attendance.

(iii) Court referral documentation or referral recommendations, or both.

(iv) Any correspondence related to the student.

(v) A copy of the 75 Pa.C.S. § 1543(b)(1) (relating to driving while operating privilege is suspended or revoked) notification that is signed and dated by the student.

(2) *Custody of AHSS student records.* The DUI program coordinator or the coordinator's designee shall maintain all AHSS student records.

§ 94.9. Notification of possible fine and imprisonment.

AHSS instructors shall provide oral and written notice of the provisions of 75 Pa.C.S. 1543(b) (relating to driving while operating privilege is suspended or revoked) to all AHSS students during the first component of AHSS, in the following manner:

- (1) Two copies of a written notice as provided in paragraph (6) shall be distributed to every student during the first component.
- (2) The notice shall be read aloud by the AHSS instructor in the presence of all the AHSS students in attendance.
- (3) All AHSS students shall sign and date both copies of the notice.
- (4) The AHSS instructor shall collect one copy of the signed and dated notice from each AHSS student.
- (5) The AHSS instructor shall file the signed and dated copy of the notice in each AHSS student's record.
- (6) The written notice must state the following:

You are hereby notified that, either as a result of your conviction for DUI, or as a condition of acceptance of ARD, Section 1543(b) of the Pennsylvania Consolidated Statutes, Title 75, Vehicles (Vehicle Code) now applies to you.

Section 1543(b) provides that any person who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when their operating privilege is suspended or revoked either—

- (1) as a condition of acceptance of Accelerated Rehabilitative Disposition,
- (2) for a violation of Section 3802 or the former section 3731 (relating to driving under the influence of alcohol or controlled substance),
- (3) because of a violation of section 1547(b)(1) (relating to suspension for refusal) or
- (4) suspended under section 1581 (relating to Driver's License Compact) for an offense substantially similar to a violation of section 3802 or former section 3731—

shall, upon conviction, be guilty of a summary offense, and shall be sentenced to pay a fine of \$500 and be imprisoned for a period of not less than 60 days nor more than 90 days.

In addition to the penalty above, any person who drives a motor vehicle on any highway or trafficway of the Commonwealth when their operating privilege is suspended or revoked for any of the reasons noted above, AND whose blood alcohol by weight is equal to or greater than 0.02% at the time of testing OR whose blood has any amount of a Schedule I or nonprescribed Schedule II or III

controlled substance or its metabolite at the time of testing—

(1) for the first conviction shall be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and be imprisoned for a period of not less than 90 days.

(2) for a second conviction shall be guilty of a misdemeanor of the third degree and shall be sentenced to pay a fine of \$2,500 and be imprisoned for a period of not less than six months.

(3) for a third or subsequent conviction shall be guilty of a misdemeanor of the first degree and shall be sentenced to pay a fine of \$5,000 and be imprisoned for a period of not less than two years.

These provisions shall apply whether the person is currently serving a suspension, whether the effective date of the suspension or revocation has been deferred, or otherwise until the person has had his/her operating privilege restored. They shall also apply to a revocation under the habitual offenders provisions of section 1542 if any of the enumerated offenses was for a violation of section 3802 or former section 3731 or a substantially similar out of state offense under section 1581.

This signature verifies that I have read and understood the above and have been notified verbally of the consequences of violating Section 1543(b) of the Vehicle Code (75 Pa.C.S. § 1543(b)).

(Signature)

(Date)

Cross References

This section cited in 67 Pa. Code § 94.5 (relating to curriculum).

§ 94.10. AHSS instructor qualification, selection, certification and recertification.

(a) *Qualifications.* Candidates for AHSS instructor certification shall meet the following qualifications and requirements. The candidate shall:

- (1) Be at least 21 years of age.
- (2) Possess a bachelor's degree from an accredited college or university.
- (3) Possess a valid driver's license.
- (4) Attend and observe the teaching of a complete 12 1/2 hour AHSS course cycle by a certified AHSS instructor.

(5) Be sponsored by the DUI program coordinator or the coordinator's designee of the county, multicounty, judicial district, or group of counties combined under a single DUI program, in which the candidate will be instructing.

(b) *Submission of the names of qualified candidates.* The sponsoring DUI program coordinator or the coordinator's designee shall submit a list of the names of qualified candidates to the Department or its designee utilizing forms and procedures prescribed by the Department or its designee.

(c) *AHSS instructor certification.* Candidates who are accepted into the AHSS instructor certification process shall complete the following requirements before certification. A candidate shall:

(1) Participate in an approved 2-day AHSS Instructor Certification Training Workshop sponsored by the Department.

(2) Teach a full AHSS curriculum, as prescribed in § 94.5 (relating to curriculum), while under the direct supervision of the DUI program coordinator or the coordinator's designee. The DUI program coordinator or the coordinator's designee shall administer pretests and posttests to the AHSS students. The instructor candidate shall document the results of these tests by using standardized reporting forms issued by the Department or its designee.

(3) Document compliance with the uniform AHSS curriculum by the submission of a course outline meeting the minimum core components described in § 94.5 or on standardized forms as deemed appropriate by the Department or its designee.

(4) Send the completed standardized reporting forms to the Commonwealth's Alcohol Highway Safety Program office of the Department, or to its designee.

(5) Participate in the 1-day AHSS Performance Analysis Workshop when all candidates shall demonstrate their knowledge of alcohol highway safety by scoring 85% or better on tests developed by the Department or its designee.

(d) *DUI program coordinator verification.* The sponsoring DUI program coordinator or the coordinator's designee shall verify the AHSS instructor candidate's satisfactory completion of all requirements on reporting forms issued by the Department or its designee prior to the candidate's participation in the 1-day AHSS Performance Analysis Workshop.

(e) *Recertification.*

(1) AHSS instructors shall be recertified every 2 years, in accordance with the following:

(i) Prior to recertification, every AHSS instructor shall have completed 12 credit hours of instruction at Department-approved workshops during the previous 24 months.

(ii) During the second 12 months of an instructor's existing certification period, the DUI program coordinator or the coordinator's designee shall observe the instructor teach one complete 12 1/2 hour AHSS course cycle.

(iii) The DUI program coordinator or the coordinator's designee shall verify that the instructor is adhering to the uniform AHSS curriculum, as prescribed by § 94.5.

(iv) The AHSS instructor shall administer an approved pretest and posttest to the AHSS class during the class cycle which is being observed by the DUI program coordinator or the coordinator's designee. The results of both tests must be submitted to the DUI program coordinator or the coordinator's designee.

(v) The DUI program coordinator or the coordinator's designee shall submit to the Department or its designee, on standardized reporting forms issued by the Department or its designee, verification of the instructor's satisfaction of, or the failure to satisfy, all of the requirements for recertification, together with a recommendation to grant or deny recertification of the AHSS instructor.

(2) The Department or its designee may waive, substitute or give credit toward any of the requirements for AHSS instructor recertification as specified in this section by offering suitable preannounced programs and workshops for AHSS instructors who qualify for recertification.

§ 94.11. Suspension or revocation of certification.

The Department may, upon good cause shown, suspend or revoke the certification of an AHSS instructor and restrict or prohibit an instructor from participating in a DUI program. The written notice of suspension or revocation will include notice and an opportunity for administrative hearing under Chapter 491 (relating to administrative practice and procedure). This provision does not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from also taking appropriate action in response to claim of instructor disqualification or misconduct.

§ 94.12. DUI program coordinators.

(a) *Requirement.* Each county, multicounty judicial district or group of counties combined under a single DUI program shall designate a person to function as a DUI program coordinator.

(b) *Appointment.* Designation of a DUI program coordinator shall be made by the president judge of the county or multicounty judicial district, or by a consensus of the president judges within a single DUI program area.

(c) *Qualifications.* DUI program coordinators shall either possess a bachelor's degree with a major in business administration, business management, chemical addictions, criminal justice, public administration, psychology, social sciences, social work, sociology, education, or a closely related field, or be able to demonstrate at least 2 years of related management or administrative experience, or be able to demonstrate a suitable combination of education and relevant experience to the Department or its designee.

(d) *Responsibility for administration of AHSS.* The DUI program coordinator shall be responsible for administration of the AHSS, including the following:

(1) The DUI program coordinator shall serve as a liaison between the AHSS and the Department, its designee, or both, for the purposes of planning, implementing and monitoring all DUI related activities which are occurring within the coordinator's county, multicounty judicial district, or group of counties combined under a single DUI program which are related to the operation of an AHSS.

(2) The DUI program coordinator shall insure that all of the DUI services which are required by 75 Pa.C.S. (relating to Vehicle Code) in conjunction with the operation of the AHSS are made available and are provided in their respective DUI program areas, and that those services are in compliance with all applicable State and local regulations.

(3) The DUI program coordinator shall recommend candidates for certification as AHSS instructors.

(4) The DUI program coordinator shall supervise AHSS instructor candidates during the certification process.

(5) The DUI program coordinator shall ensure that all AHSS instructors are currently certified and administering the AHSS curriculum in compliance with this chapter.

(6) The DUI program coordinator shall maintain documentation relating to the certification of all AHSS instructors within the coordinator's jurisdiction.

(7) The DUI program coordinator shall submit any AHSS information and data requested by the Department or its designee using forms and procedures specified by the Department.

(8) The DUI program coordinator, within 1 year of appointment to the position as described in subsection (b), shall participate in an approved 2-day AHSS Instructor Certification Training Workshop sponsored by the Department.

(9) The DUI program coordinator shall earn 12 credits every 2 years through the Department's Alcohol Highway Safety Program sponsored workshops. Six of these credits shall be earned by attending an annual DUI Program Coordinators' Conference designed and hosted by the Department or its designee specifically for the DUI program coordinators. One hour of class time shall equal one credit. An all-day workshop will provide six credits and a 1/2 day workshop will provide three credits.

(e) *DUI program coordinator misconduct.* The Department may, upon good cause shown, recommend to the president judge of the court overseeing a DUI program that any DUI program coordinator should be removed, restricted, or otherwise prohibited from participating in any activity under this chapter. This provision does not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from taking appropriate action in response to claim of DUI program coordinator misconduct.

Cross References

This section cited in 67 Pa. Code § 94.3 (relating to general requirements and objectives).

§ 94.13. Confidentiality.

The AHSS shall keep all student records confidential and may not disclose them to any person other than the student and the Department. This section does not apply to any notification to the sentencing court, county probation department

or State Parole Board. An individual AHSS student may waive these rights by a written explicit and knowing waiver signed by the student in the presence of the DUI program coordinator or the coordinator's designee.

§ 94.14. Cost.

Cost of attendance at an AHSS shall be in addition to any other penalty required or allowed by law and shall be the responsibility of the attendee. The fee charged for attendance at an AHSS shall be determined independently by each county, multicounty judicial district, or group of counties combined under a single DUI program. A Statewide listing of the fee charged for AHSS in jurisdictions throughout this Commonwealth is available from the Department upon request at no charge. Prospective students of an AHSS may verify the fee for attendance by contacting the particular school for its fee schedule.

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