

(10) Is the regulation mandated by any federal or state law or court order, or federal regulations?

These regulations are required by 75 Pa. C.S. §1549.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The compelling public interest that justifies this regulation is that all persons convicted of violating 75 Pa. C. S. § 3731 and who are required to attend AHSS pursuant to 75 Pa. C. S. § 1548 (b) should be instructed according to a uniform curriculum by instructors certified according to Department standards. This regulation will provide quality assurance by requiring that DUI Program Coordinators who administer the AHSS will be certified by the Department, as well as requiring certification of the AHSS in every county, multicounty judicial district or group of counties under a single DUI program and any other AHSS provided by a private for-profit or nonprofit business entity which is contracted by a county, multicounty judicial district or group of counties under a single DUI program to operate an AHSS.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

The risk posed by drivers operating their vehicles under the influence of drugs or alcohol is addressed collaterally in these regulations by providing uniform curriculum for educating drivers about the impairment to safe driving ability posed by alcohol and controlled substance use.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

These regulations will benefit individuals convicted for DUI through a comprehensive curriculum to help them understand the relationship of alcohol and controlled substance use to highway safety. Instruction using this curriculum will benefit all citizens of the Commonwealth as well as those who travel the Commonwealth's highways because it will reduce alcohol-related fatalities and alcohol-related crashes. A county, multicounty judicial district or group of counties combined under a single DUI program will also benefit because uniform guidelines for selection, certification and recertification of AHSS instructors and DUI Program Coordinators will be established. Furthermore, the Commonwealth will benefit from these regulations in that it provides quality assurance from all DUI programs and establishes a measurable standard to be used across the Commonwealth by all county, multicounty judicial districts or group of counties combined under a single DUI program.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There should be no measurable adverse effects arising from this regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The persons, groups or entities that will be required to comply with these regulations are the 63 county, multicounty judicial districts or group of counties combined under a single DUI program and the approximately 220 current AHSS instructors.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Input in the form of review and comment on these regulations was solicited from DUI Program Coordinators, Court Reporting Network evaluators, AHSS instructors, adult and juvenile probation officers, Single County Authorities, Drug and Alcohol Program Administrators, District Magistrates, Common Pleas Court Judges, and Police Officers.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting of consulting procedures which may be required.

It is not possible to estimate the costs and/or savings to the regulated community associated with compliance, including any legal, accounting, or consulting procedures, but it is believed that they will be marginal..

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

It is not possible to estimate the costs and/or savings to local governments associated with compliance, including any legal, accounting, or consulting procedures, but it is believed that they will be marginal.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

It is not possible to estimate the costs and/or savings to state government associated with compliance, including any legal, accounting, or consulting procedures, but it is believed that they will be marginal.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY + 1 Year	FY + 1 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
SAVINGS:	\$ Not Readily Measure-	\$	\$	\$	\$	\$

	able					
Regulated Community:	Not Readily Measure- able					
Local Government:	Not Readily Measure- able					
State Government:	Not Readily Measure- able					
Total Savings	Not Readily Measure- able					
COSTS:	Not Readily Measure- able					
Regulated Community	Not Readily Measure- able					
Local Government	Not Readily Measure- able					
State Government	Not Readily Measure- able					
Total Costs	Not Readily Measure- able					
REVENUE LOSSES:	Not Readily					

	Measure-able					
Regulated Community	Not Readily Measure-able					
Local Government	Not Readily Measure-able					
State Government	Not Readily Measure-able					
Total Revenue Losses	Not Readily Measure-able					

(20a) Explain how the cost estimates listed above were derived.

N/A.

(20b) Provide the three-year expenditure history for programs affected by the regulation.

There are no budgeted Department programs directly affected by this regulation.

Program	FY-3 00-01	FY-2 01-02	FY-1 02-03	Current FY 03-04
Appropriation 187	\$ 8,985,000	\$ 8,705,000	\$ 9,121,000	\$ 9,430,000

(21) Using cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Precise cost benefit information cannot be provided as the costs are marginal and the benefits, embodied in the improvement in AHSS curriculum and resulting reduction of incidents of DUI

are difficult to measure. It is believed that the benefits outweigh any marginal cost associated with this regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The nonregulatory regulatory alternative to the promulgation of this regulation is to allow DUI and AHSS programs to remain unregulated and without uniform curriculum, risking haphazard instruction and rehabilitation of DUI violators. This alternative was rejected as inconsistent with the intent of the authorizing legislation to have the Department establish and oversee a comprehensive and uniform DUI program.

(23) Describe alternative regulatory schemes and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no provisions that are more stringent than the federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Other states already provide for such standards and these regulations further define the Department's efforts to meet requirements for self-sustaining DUI programs according to the Transportation Equity Act for the 21st Century enacted June 9, 1998 as P. L. 105 – 178 and the Transportation Equity Act for the 21st Century Restoration Act , enacted July 22, 1998 as P. L. 105 - 206 (23 USC § 401 et seq.). They will make the Department's requirements equivalent to requirements in other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These regulations will not affect existing or proposed regulations of the promulgating agency or other state agencies.

(27) Will any public hearings or informal meetings be scheduled? Please provide the dates, times and locations, if available.

No public hearings other than the IRRC public meeting are contemplated.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Three forms in addition to one already in use will be required by the proposed regulation. A copy of each form is attached to this form. The first form is actually the written notification of possible fine and imprisonment according to the provisions of 75 Pa. C. S. §§ 1543 (b) – relating to driving while operating privilege is suspended or revoked. The second form is an application for a letter of approval to operate an Alcohol Highway Safety School within the Commonwealth of Pennsylvania. The third form is the letter of approval for the operation of an Alcohol Highway Safety School. The fourth form is for the sponsoring DUI Program Coordinator to submit the names of qualified AHSS instructors.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

These regulations do not include provisions to meet the particular needs of affected interest groups. They do however, include provisions to meet the particular needs of the students. For example, AHSS classes for DUI offenders are scheduled at times that do not conflict with the work schedules of the majority of the students. Further, these regulations permit, with the AHSS instructor's approval, a student to make up one component of the AHSS that has been legitimately missed.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These regulations shall be effective upon publication of final adoption in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Department will continue to monitor these regulations for their effectiveness.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

2417

Copy below is hereby approved as to form and legality. Attorney General

By

Amy M. Elliott

(Deputy Attorney General)

AUG 11 2004

Date of Approval _____

☐ Check if applicable
Copy not approved. Objections
attached.

Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Department
of
Transportation

DOCUMENT/FISCAL NOTE NO.18-377

DATE OF ADOPTION _____

BY

Allen D. Bieker

Secretary of Transportation

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY

Tanya Cole

Date of Approval 4/2/04

(Deputy General Counsel)
(Chief Counsel, Independent
Agency)
(Strike Inapplicable Title)

☐ Check if applicable. No Attorney
General Approval or objection
within 30 days after submission.

**NOTICE OF PROPOSED RULEMAKING
DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY AND TRAFFIC ENGINEERING
TITLE 67. TRANSPORTATION
PART I. DEPARTMENT OF TRANSPORTATION
SUBPART A. VEHICLE CODE PROVISIONS
ARTICLE IV. LICENSING
CHAPTER 94
ALCOHOL HIGHWAY SAFETY SCHOOLS AND
DRIVING UNDER THE INFLUENCE PROGRAM COORDINATORS**

TITLE 67. TRANSPORTATION

PART 1. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 94

ALCOHOL HIGHWAY SAFETY SCHOOLS AND

DRIVING UNDER THE INFLUENCE PROGRAM COORDINATORS

NOTICE OF PROPOSED RULEMAKING

Preamble

The Department of Transportation, Bureau of Highway Safety and Traffic Engineering, pursuant to the authority contained in Sections 1549 and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa C.S. 1549 and 6103), proposes to amend Title 67 of the Department of Transportation regulations by establishing Chapter 94, Alcohol Highway Safety School and Driving Under the Influence Program Coordinators, as set forth in Annex A to this Notice.

Purpose of this Chapter

The purpose of this Chapter is to implement the provisions of Section 1549(b) of the Vehicle Code (75 Pa. C.S. 1549(b)) which require each county, multicounty judicial district or group of counties combined under a single driving under the influence (DUI) program to establish and maintain a course of instruction regarding the problems associated with alcohol and/or controlled substance use and driving.

Purpose of These Regulations

The purpose of these regulations is to provide rules and procedures for the establishment and ongoing operation of Alcohol Highway Safety Schools (AHSS) in each county, multicounty judicial district or group of counties combined under a single DUI program within the Commonwealth. This chapter establishes uniform curriculum standards for AHSS as well as rules governing the selection, training, certification and recertification of AHSS instructors. Additionally, these regulations establish procedures governing the appointment of DUI Program Coordinators for each county, multicounty judicial district or group of counties combined under a single DUI program within the Commonwealth.

These regulations have been developed with the cooperation of the Pennsylvania DUI Association. DUI Program Coordinators, Court Reporting Network evaluators, AHSS instructors, adult and juvenile probation officers, Single County Authorities, Drug and Alcohol Program Administrators, District Magistrates, Common Pleas Court Judges and Police Officers have aided in the development of these regulations. The knowledge gleaned from the experiences of such a diverse group has also helped to create a standardized curriculum for the AHSS, thereby further assuring that the goals of the AHSS can better be realized with some uniformity. These regulations also serve to codify informally adopted existing rules and procedures, which have been implemented since the beginning of the Commonwealth's Alcohol Highway Safety Countermeasure System (AHSCS) in 1978.

Each AHSS has been established to educate participants concerning the effects of alcohol or controlled substance use on an individual's ability to safely operate a motor vehicle on Commonwealth highways. Moreover, each AHSS endeavors to provide participants with insights into the overall effects of alcohol-related behavior, as those effects apply to the

participant's home and work environment. The goal of the AHSS is to encourage positive behavioral outcomes, which will contribute to a decreased likelihood of the participants operating a motor vehicle while under the influence of alcohol or a controlled substance. These regulations also outline provisions for administering both oral and written notification of possible fine and imprisonment to every AHSS participant regarding the consequences of driving a motor vehicle while their operating privilege is suspended or revoked.

Summary of Significant Provisions

Section 94.3(a) provides that each county, multicounty judicial district or group of counties combined under a single DUI program is to establish and maintain an AHSS which follows a uniform curriculum, is taught by certified AHSS instructors, has sufficient classroom space, and provides participants with notification of possible fine and imprisonment according to the provisions of Section 1543(b) of the Vehicle Code (75 Pa. C.S. Section 1543(b) (relating to driving while operating privilege is suspended or revoked). This subsection also requires each county, multicounty judicial district or a group of counties combined under a single DUI program to appoint a DUI Program Coordinator to oversee the administration of the AHSS. Section 94.3(b) provides that the objectives of the AHSS are to include, but not be limited to, providing students with a basic knowledge and understanding of alcohol and controlled substances and their effects, alcoholism and addiction, and highway safety, which will encourage a positive change in the students' attitude concerning driving under the influence of alcohol or a controlled substance.

Section 94.5 provides the content requirements and specific objectives for the AHSS curriculum and requires that the AHSS contain at least 12 ½ hours of instruction.

Section 94.6 provides the process for obtaining Department approval of an AHSS as well as for the refusal or revocation of approval of an AHSS. The section provides that DUI Program Coordinators with an existing AHSS have 12 months from the effective date of these regulations to apply for a letter of approval. The section provides that the letter of approval has a term of 24 months and must be renewed before expiration in order for the AHSS to continue in operation. This section authorizes the Department or its designee to visit and inspect any AHSS operating within the Commonwealth and to revoke or refuse to issue an AHSS letter of approval if the AHSS is not in compliance with the provisions of this Chapter or with a Department directive issued pursuant to an on-site visit of an AHSS.

Section 94.9 sets forth the procedures for providing written and oral notice of the provisions of Section 1543(b) of the Vehicle Code (75 Pa. C.S. 1543(b) (relating to driving while operating privilege is suspended or revoked)), to be given to all AHSS participants during their first session of AHSS. This section specifies the wording of the notice to be given and requires the participants signed acknowledgement that the notice was given.

Section 94.10 provides for the qualification and certification of AHSS instructor candidates. The section requires that instructors be at least 21 years of age, possess a valid driver's license, have obtained a bachelor's degree or its equivalent, attend a two-day Instructor Certification Training Workshop and score 85 percent or better on tests, and student teach a complete AHSS class cycle under supervision of the DUI Program Coordinator. This section also requires instructor recertification every 2 years and includes continuing education requirements. The section also requires that the DUI Program Coordinator monitor every AHSS instructor during one complete twelve and one-half hour AHSS course cycle during the last 12 months of the AHSS instructor's certification period.

Section 94.12 provides, in subsection (a), that each county, multicounty judicial district or group of counties combined under a single DUI program shall have a DUI Program Coordinator. Subsection (b) gives the President Judge the authority to appoint a DUI Program Coordinator. Subsection (c) requires that candidates for the DUI Program Coordinator position either have a bachelor's degree with a major in business administration, business management, chemical addictions, criminal justice, public administration, psychology, sociology, social sciences, social work, education or other closely related field, or be able to demonstrate at least two years of related management or administrative experience or any suitable combination of education or relevant experience. Subsection (d) delineates the DUI Program Coordinator's responsibilities, which consist of:

- (1) acting as a liaison between the county, multicounty judicial district or group of counties combined under a single DUI program and the Department of Transportation in order to help plan, implement and monitor all DUI related activities;
- (2) providing all DUI services described in the Vehicle Code;
- (3) recommending candidates for certification as AHSS instructors;
- (4) supervising AHSS instructor candidates;
- (5) insuring that all AHSS instructors are currently certified;
- (6) maintaining documentation of all currently certified AHSS instructors;
- (7) submitting any data and information requested to the Department of Transportation;
- (8) attending AHSS instructor certification workshops; and
- (9) earning twelve credits every two years.

Subsection (e) provides for Department of Transportation sanctions for coordinator misconduct.

Persons and Entities Affected

These regulations affect all persons who are convicted of violating Section 3802 or former Section 3731 of the Vehicle Code (75 Pa. C.S. § 3802 and former §3731--relating to driving under the influence of alcohol or controlled substance) required to attend an AHSS pursuant to Section 1548(b) of the Vehicle Code (75 Pa. C.S. § 1548(b)--relating to attendance at alcohol highway safety schools). These regulations also affect Court of Common Pleas Judges, county adult and juvenile probation officers, district attorneys, DUI Program Coordinators, AHSS instructors, candidates for certification as AHSS instructors, and every county, multicounty judicial district or group of counties combined under a single DUI program within the Commonwealth. Any other private, for-profit or nonprofit business entity that is contracted by a county, multicounty judicial district or group of counties combined under a single DUI program for the purpose of operating an AHSS is also affected by these regulations.

Fiscal Impact

These regulations will not require the expenditure of any additional funds by the Commonwealth since the Pennsylvania AHSCS has been operational since 1978. The Federal Department of Transportation, National Highway Traffic Safety Administration administers the State and Community Highway Safety Program that is funded in accordance with 23 U.S.C. 402. The purpose of these funds is to provide federal financial assistance to state agencies and local political sub-divisions' highway safety programs, which are designed to reduce incidences of driving after drinking, alcohol and/or controlled substance related crashes and the fatalities, injuries and property damage resulting from these crashes. These Federal funds also support

the Department of Transportation program managers who monitor and provide technical assistance to the local AHSCS. Further, although the regulations require every county, multicounty judicial district or group of counties combined under a single DUI program to establish and maintain a local AHSCS, each system is designed to be self-supporting. Each AHSCS includes a DUI Program Coordinator and an AHSS. Every county, multicounty judicial district or group of counties combined under a single DUI program currently has an operational AHSS that is self-supporting. DUI offenders who are court ordered to attend an AHSS are responsible pursuant to 75 Pa. C.S. 1548(e), to pay the cost of attending an AHSS. Each AHSS program's Board of Directors or County Commissioners independently sets the fee for attending the AHSS. Fees are also approved by the President Judge of the Court of Common Pleas in the county where the AHSS is located. AHSS fees completely offset any costs incurred in the operation of a local AHSCS, thereby rendering the AHSCS self-supporting.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. § 745.5(a), the agency submitted a copy of these proposed regulations on August 17, 2004 to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the regulations, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the

public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

Sunset Date

The Department of Transportation is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required by the Vehicle Code (75 Pa. C.S. 101, et seq.). The Department of Transportation, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Louis R. Rader, Bureau of Highway Safety and Traffic Engineering, Commonwealth Keystone Building, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person is Louis Rader, Manager, Pennsylvania Alcohol Highway Safety Program, Bureau of Highway Safety and Traffic Engineering, Commonwealth Keystone Building, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, (717) 787-6853.

Allen D. Biehler, P.E.

Secretary of Transportation

ANNEX A
TITLE 67. TRANSPORTATION
PART 1. DEPARTMENT OF TRANSPORTATION
SUBPART A. VEHICLE CODE PROVISIONS
ARTICLE IV. LICENSING
CHAPTER 94
ALCOHOL HIGHWAY SAFETY SCHOOLS AND
DRIVING UNDER THE INFLUENCE PROGRAM COORDINATORS

§ 94.1. Purpose.

The purpose of this chapter is to implement the provisions of Section 1549(b) of the Vehicle Code (75 Pa. C.S. § 1549(b)) which require every county, multicounty judicial district, or group of counties combined under a single driving under the influence (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, shall have, unless the context clearly indicates otherwise, the following meanings:

Accelerated Rehabilitative Disposition (ARD) — 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.

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

Alcohol Highway Safety School (AHSS) — 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 Section 3802 of the Vehicle Code (75 Pa. C.S. § 3802).

Controlled substance — Any substance so defined or classified under: (1) the Act of April 14, 1972 (P.L. 233, No. 64) known as "The Controlled Substance, Drug, Device and Cosmetic Act"; (2) Section 102(6) of the Controlled Substance Act (Public Law 91-513, 21 U.S.C. Section 802(6)); (3) Schedules I through V of 21 CFR Part 1308; and (4) any revisions to (2) or (3) above which are published by the Department of Health as notices in the *Pennsylvania Bulletin*.

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

Department — The Department of Transportation of the Commonwealth.

Driving under the influence (DUI) — 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.

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.

§ 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 Alcohol Highway Safety School (AHSS) which shall provide a course of instruction regarding problems associated with the use of alcohol and controlled substances, and driving. The school program shall include:

(1) A uniform curriculum as further prescribed by Section 94.5 of this chapter, which shall have as its objectives:

(i) To educate students concerning the relationship of the use of alcohol or controlled substances, or both, to highway safety;

(ii) To educate students concerning the effects of the use of alcohol or controlled substances, or both, on social relationships and the family;

(iii) To educate students concerning the effects of the use of alcohol or controlled substances, or both, on economic functioning; and

(iv) To educate students concerning the availability of alcohol and substance abuse programs and counseling.

(2) AHSS instructors who are trained, certified and recertified as prescribed in Section 94.10 of this chapter;

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

(4) A DUI Program Coordinator as specified in Section 94.12 of this chapter;
and

(5) Classroom space that is conducive to learning, and which is of adequate size to accommodate a maximum of 50 people. However, the maximum number of students per class shall not exceed 25. A building that houses an AHSS classroom shall 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.

Every person convicted of a first or second offense violation of Section 3802 of the Vehicle Code (75 Pa. C.S. § 3802), or placed on ARD or other preliminary disposition as a result of an alleged violation of Section 3802, shall be required to attend, pay all costs, and successfully complete an approved AHSS program whether it be as a part of their sentencing, as a condition of parole or probation, or as a part of their ARD, in accordance with Section 3807 of the Vehicle Code (75 Pa. C.S. § 3807).

§ 94.5 Curriculum.

(a) The AHSS curriculum shall consist of a minimum of twelve and one-half hours of instruction and shall include the following core components:

(1) *Component One.* Component one shall 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 shall include:

(i) To provide an understanding of the purpose of the AHSS.

(ii) To explain 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) To create a classroom environment, that fosters active participation and appropriate structure.

(iv) To provide an understanding of the Pennsylvania AHSCS.

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

(vi) To examine Pennsylvania laws regarding DUI; and

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

(2) Component two. Component two shall 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 shall include:

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

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

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

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

(3) Component three: The focus of this component is to examine how alcohol and drug use affects driving decisions and skills. This component also provides the opportunity to explore the DUI arrest as a possible warning sign of a substance abuse

problem. Characteristics of alcohol and drug abuse and addiction shall be discussed during this component. The instructional objectives shall include:

(i) To examine how alcohol and drug use affects driving skills.

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

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

(4) Component four: Component four provides students the opportunity to further examine alcohol and drug abuse, addiction and the broad impact of a DUI arrest on family, friends and employment. Local drug and alcohol counseling and treatment services shall be identified. The instructional objectives shall include:

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

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

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

(iv) To identify local drug and alcohol counseling and treatment services.

(v) To recognize the importance of alcohol and drug abstinence for some individuals.

(5) Component five. The final component addresses the need for each course participant to develop realistic plans to avoid future DUI behavior. Evaluation of AHSS content and quality of instruction shall occur at the conclusion of the component. The instructional objectives shall include:

- (i) To identify realistic steps to prevent a future DUI.
- (ii) To measure any knowledge gained or attitudinal changes among participants since the inception of the class.
- (iii) To reinforce the purpose, availability and locale of treatment and/or counseling services.
- (iv) To provide an opportunity to evaluate the AHSS and the instructor.

§ 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) Any AHSS which is fully operational on the effective date of these regulations 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 in order 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 shall 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 six months prior to the lapse.

(c) *Entry and Inspection.* The Department or its designee, shall have the right to enter upon the premises and inspect an AHSS at any time for the purpose of determining compliance with the requirements set forth in this chapter. The Department shall have free access to the records of the AHSS and all of its students' records, not covered under confidentiality laws or regulations, including Section 94.13 of this chapter, as part of the entry and inspection process.

(d) *Revocation or Refusal.* The Department or its designee may 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; or

(2) Failure to comply with a directive issued by the Department or its designee following an on-site 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 of Transportation or its designee to meet approval to operate an AHSS.

(f) *No operation without approval.* No AHSS may 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.

- (i) A summary of any and all fees remitted or payments made in conjunction with the AHSS;
- (ii) Record of the student's attendance;
- (iii) Court referral documentation and/or referral recommendations;
- (iv) Any correspondence related to the student; and
- (v) A copy of the section 1543(b)(1) 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.

All AHSS instructors shall provide oral and written notice of the provisions of Section 1543(b) of the Vehicle Code (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 below 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 will 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; and

(6) The written notice shall state as follows:

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 non prescribed 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)

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

(a) Qualifications. Candidates for AHSS instructor certification shall meet all of the following qualifications and requirements:

(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; and
(4) Attend and observe the teaching of a complete 12½ 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 must 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 all of the following requirements before certification:

(1) Candidates must participate in an approved two-day AHSS Instructor Certification Training Workshop sponsored by the Department;

(2) Candidates must teach a full AHSS curriculum, as prescribed in Section 94.5, 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) Candidates must document their compliance with the uniform AHSS curriculum by the submission of a course outline meeting the minimum core components described in Section 94.5 or on standardized forms as deemed appropriate by the Department or its designee

(4) All completed standardized reporting forms shall be sent to the Commonwealth's Alcohol Highway Safety Program office of the Department or to its designee;

(5) Candidates shall participate in the one day AHSS Performance Analysis Workshop where all candidates shall demonstrate their knowledge of alcohol highway safety by scoring 85% or better on tests developed by the Department or its designee; and

(6) Following completion of the requirements outlined in paragraphs (1) through (5) of this subsection, the instructor candidate shall complete any additional reporting requirements established by the Department or its designee.

(d) DUI Program Coordinator verification. The sponsoring DUI Program Coordinator or the coordinator's designee must 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 one-day AHSS Performance Analysis Workshop.

(e) Recertification. All AHSS instructors shall be recertified every two years, in accordance with the following:

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

(2) During the second twelve months of an instructor's existing certification period, the DUI Program Coordinator or the coordinator's designee shall observe the instructor teach one complete 12½ hour AHSS course cycle.

(3) The DUI Program Coordinator or the coordinator's designee shall verify that the instructor is adhering to the uniform AHSS curriculum, as prescribed by Section 94.5 of this Chapter.

(4) 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.

(5) 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.

The Department or its designee may waive, substitute or give credit toward any or all requirements for AHSS instructor recertification as specified in this section by offering suitable pre-announced 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 any AHSS instructor and restrict or prohibit an instructor from participating in a DUI Program. The Department shall provide notice and an opportunity for administrative hearing pursuant to 67 Pa. Code, Chapter 491 within a reasonable time after any action is taken under this provision. This provision shall not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from also taking any appropriate action in response to any 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 two 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 the 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 the requirements of 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 one year of appointment to the position as described in 94.12 (b), shall participate in an approved two-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 one-half day workshop will provide three credits.

(e) *DUI Program Coordinator misconduct.* The Department of Transportation 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 regulation. This provision shall not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from taking any appropriate action in response to any claim of DUI Program Coordinator misconduct.

§ 94.13. Confidentiality.

The AHSS shall keep all student records confidential and shall not disclose them to any person other than the student and the Department. This section shall 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 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 the 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.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

www.dot.state.pa.us



Office of Chief Counsel
P.O. Box 894
Harrisburg, Pennsylvania 17105-894
(717) 787-6485

August 17, 2004

Robert E. Nyce
Executive Director
14th Floor Harrisburg 2
333 Market Street
Harrisburg, PA 17101

**Re: Proposed Rulemaking
Regulation #18-377: 67 Pa. Code, Chapter 94 —
Alcohol Highway Safety Schools and
Driving under the Influence Program Coordinators**

Dear Mr. Nyce:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for a new regulatory chapter which the Department of Transportation intends to adopt following proposed rulemaking in accordance with the provisions of Section 204 of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1204.

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees and to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

The Department of Transportation will provide you with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen F. J. Martin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen F. J. Martin
Regulatory Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: #18-377

SUBJECT: Alcohol Highway Safety Schools and Driving Under the Influence
Program Coordinators, 67 Pa. Code, Chapter 94

AGENCY: Department of Transportation

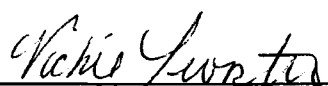

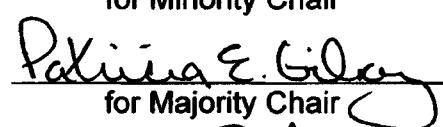
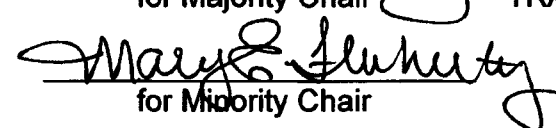
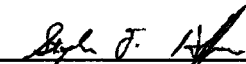

TYPE OF REGULATION

#2417

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

RECEIVED
2004 AUG 17 AM 11:13
LEGISLATIVE COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/17	 for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION
8/17	 for Minority Chair	
8/17	 for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION
8/17	 for Minority Chair	
8/17		INDEPENDENT REGULATORY REVIEW COMMISSION
8/17		LEGISLATIVE REFERENCE BUREAU

Date: August 17, 2004