



SPONSOR: Rep. Keeley & Rep. Mitchell & Rep. Smyk &  
Rep. Wilson & Sen. Henry & Sen. Lopez  
Sens. Ennis, Hansen

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 205

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO BAIL CONDITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 2108, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
2           insertions as shown by underline as follows:

3           (c) In connection with either a secured release or unsecured release of any person charged with a violation of §  
4           4177 of Title 21 which is alleged to be punishable as a felony pursuant to that section, the court shall impose a condition  
5           that the person not drive a vehicle, as defined by that section, until a nolle prosequi is filed, the case is dismissed or an  
6           adjudication of not guilty is returned, whichever shall first occur, or if the person is adjudicated guilty by way of plea of  
7           guilty or a conviction by court or jury, at the time of sentencing, unless further made a condition of probation by the  
8           sentencing judge.

9           (d) In connection with either a secured or unsecured release of any person charged with a violation of § 4177 of  
10          Title 21 which is alleged to be punishable as a misdemeanor pursuant to that section, the court may impose a condition that  
11          the person not drive a vehicle, as defined by that section, until a nolle prosequi is filed, the case is dismissed or an  
12          adjudication of not guilty is returned, whichever shall first occur, or if the person is adjudicated guilty by way of plea of  
13          guilty or a conviction by court or jury, at the time of sentencing, unless further made a condition of probation by the  
14          sentencing judge. Pursuant to § 2112 of Title 11, the Justice of the Peace Court may permit a person charged with a  
15          violation of § 4177 of Title 21 to drive as a condition of bail set forth at the time bail is set or modified at any further time,  
16          and in accordance with the § 2742(i) of Title 21.

17          Section 2. Amend § 2112, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
18          insertions as shown by underline as follows:

19          (a) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent  
20          jurisdiction, the latter court may continue the original bail in that court. After conviction, the court may order that the  
21          original bail stand as bail pending appeal or deny, increase or reduce bail.

22           (b) Notwithstanding the provisions of Title 21, Section 4177(d)(13), where a person is charged with a violation of  
23   § 4177 of Title 21 that is alleged to be a misdemeanor, the Justice of the Peace Court may retain jurisdiction to impose,  
24   modify, and enforce bail and bail conditions until a nolle prosequi is filed, the case is dismissed or an adjudication of not  
25   guilty is returned, whichever shall first occur, or if the person is adjudicated guilty by way of plea of guilty or a conviction  
26   by court or jury, or at the time of sentencing. Pursuant to this subsection, the Justice of the Peace Court shall set bail  
27   conditions in accordance with § 2108(d) of Title 11 and may require the person to abstain from consuming alcohol or  
28   drugs, to submit to daily drug and alcohol screens, or to be monitored by continuous remote alcohol monitoring until a nolle  
29   prosequi is filed, the case is dismissed or an adjudication of not guilty is returned, whichever shall first occur, or if the  
30   person is adjudicated guilty by way of plea of guilty or a conviction by court or jury, at the time of sentencing, unless  
31   further made a condition of probation by the sentencing judge.

32           (c) The Justice of the Peace Court shall notify the Division of Motor Vehicles of the conditions which affect the  
33   driving privileges of the person charged with a violation of § 4177 of Title 21 that is alleged to be a misdemeanor in writing  
34   within 5 days of setting bail conditions. Upon receipt of such notification, the Division of Motor Vehicles shall note such  
35   bail conditions on the person's motor vehicle record.

36           Section 3. This Act shall become effective on October 1, 2017.

#### SYNOPSIS

          This Act authorizes a court to impose as a condition of bail that a person charged with misdemeanor Driving Under the Influence not be permitted to drive a vehicle. This Act also allows the Justice of the Peace Court to retain jurisdiction to impose, modify and enforce bail conditions for misdemeanor Driving Under the Influence offenders even after the case is transferred to the Court of Common Pleas for trial. This Act further authorizes the Justice of the Peace Court to impose bail conditions including abstinence from alcohol or drugs and monitoring necessary to ensure compliance with such condition.