SPONSOR: Rep. Bush & Rep. Carson & Sen. Hoffner & Rep. Lynn
Reps. Cooke, Dorsey Walker, Harris, Heffernan,
Parker Selby, Hilovsky; Sens. Hansen, Hocker, Huxtable,
Lawson, Mantzavinos, Sturgeon, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 349

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE VETERANS' TREATMENT COURT.

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

Section 1. Amend § 2732, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2732. Mandatory revocation or suspension of license or refusal to renew or issue a duplicate license.

(a) The Department shall forthwith revoke the license or driving privileges or both of any person upon receiving a record of the conviction, or adjudication of delinquency by Family Court for acts which would constitute such an offense if committed by an adult, of such person of any of the following crimes:

(3) Driving a vehicle while under the influence of intoxicating liquor or narcotic drug; provided that upon successful graduation from the Superior Court's Veterans' Treatment Court or upon successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program the revocation may be ~~rescinded;~~ rescinded.

(4) Perjury or the making of a false affidavit to the Department under this chapter or any other law of this State requiring the registration of motor vehicles or regulating their operation on ~~highways;~~ highways.

(5) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is ~~used;~~ used.

(6) Conviction or forfeiture of bail upon 3 charges of reckless driving all within the preceding 12 months; but no license shall be revoked by reason of any conviction or convictions upon the charge of overloading any vehicle as provided in § 4502 of this ~~title;~~ title.

(7) A conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose the driver's identity at the scene of the ~~accident;~~ accident.

(8) A conviction of attempting to flee or elude a police officer after having received a visual or audible signal from the officer as provided in § 4103(b) of this title.

Section 2. Amend § 4177, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4177. Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests; and penalties.

(d) Whoever is convicted of a violation of subsection (a) of this section shall:

(2) For a second offense occurring at any time within 10 years of a prior offense, be fined not less than $750 nor more than $2,500 and imprisoned not less than 60 days nor more than 18 months. The minimum sentence for a person sentenced under this paragraph may not be suspended. The sentencing Court may suspend the minimum sentence set forth in this subsection upon the condition that the offender shall successfully graduate from the Superior Court's Veterans' Treatment Court or successfully complete the Court of Common Pleas Driving Under the Influence Treatment Program in which the offender shall complete a minimum of 30 days of community service.

(f) In addition to any penalty for a violation of subsection (a) of this section, the court shall order the person to complete an alcohol evaluation and to complete a program of education or rehabilitation pursuant to § 4177D of this title which may include inpatient treatment and be followed by such other programs as established by the treatment facility, not to exceed a total of 15 months and to pay a fee not to exceed the maximum fine; provided however, that successful graduation from the Superior Court's Veterans' Treatment Court or the successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

Section 4. Amend § 4177A, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4177A. Revocation of license for violation of § 4177 of this title.

(b) (1) The Secretary shall reinstate the driver's license or driving privileges of a person sentenced under § 4177(d) of this title if the person does 1 of the following:

a. Completes the requirements for reinstatement under § 4177C(d) of this title.

b. Completes the requirements for reinstatement under the Court of Common Pleas Driving Under the Influence Treatment Program under § 4177C(g) of this title.

c. Successfully graduates from the Superior Court's Veterans' Treatment Court.

Section 5. Amend § 4177C, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4177C. Ignition interlock licenses; reinstatement of license.

(f) (1) Notwithstanding any other provision to the contrary, a person charged with a driving under the influence offense who has been permitted to participate in the Court of Common Pleas Driving Under the Influence Treatment Program (Treatment Program), or the Superior Court's Veterans' Treatment Court (Treatment Court), and is enrolled in a

program of education or rehabilitation treatment under § 4177(f) or § 4177D of this title supervised by that Court, is eligible to have an IID license in accordance with this subsection.

(2) Notwithstanding paragraph (f)(1) of this section, a person may enter the Treatment Program or Treatment Court without seeking an IID license.

(3) If a person chooses to obtain an IID license, or has any registered vehicles, the person must install an IID on each vehicle registered in that person's name.

(4) Notwithstanding paragraph (f)(3) of this section, a person must install an IID on a vehicle owned by another person, with the permission of that person, if there are no vehicles registered in the person's name.

(5) An IID must be immediately installed on eligible vehicles following the effective date of a person's entry into the Treatment Program or Treatment Court. The IID must remain installed on the vehicles for a minimum period of 12 months from the effective date of revocation or longer if the Court directs.

(6) A person in the Treatment Program or Treatment Court is eligible to apply for an IID license under § 4177G(f) of this title if all of the following apply:

a. At least 30 days have elapsed since the effective date of the revocation.

b. All licenses have been surrendered to the Division of Motor Vehicles before issuance of the IID license.

c. The person is not in violation of any terms of the Treatment Program or Treatment Court.

(g) Notwithstanding §§ 4177A(a) and 4177B(d) of this title, the Secretary shall reinstate the driver's license or driving privileges of a person who has successfully completed and graduated from the Court of Common Pleas Driving Under the Influence Treatment Program or the Superior Court's Veterans' Treatment Court and has done all of the following:

(1) Paid all fees under the schedule adopted by the Secretary.

(2) Paid all court fines, costs, and fees.

(3) Had at least 9 months elapse since 1 of the following occurred:

a. The IID was installed on a vehicle as required under this subsection and the IID license was issued.

b. The person's driving privileges were revoked if the person did not seek an IID license.

Section 6. Amend § 4177D, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4177D. Courses of instruction; rehabilitation programs.

The Secretary of the Department of Health and Social Services, through the Division of Substance Abuse and Mental Health, shall establish courses of instruction and programs of rehabilitation for persons whose drivers' licenses have been revoked for driving a vehicle while under the influence of alcohol or any drug, or both. The Secretary of the Department of Health and Social Services shall administer such courses and programs and adopt rules and regulations for such courses and programs. The Secretary of the Department of Health and Social Services shall establish a schedule of fees for enrollment in such courses and programs. The schedule of fees may not exceed the maximum fine imposed for an offense under § 4177 of this title. A person's successful graduation from the Superior Court's Veterans' Treatment Court or the successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program ~~is~~ are equivalent to a course of instruction or program of rehabilitation approved under this section.

SYNOPSIS

This bill codifies that the Superior Court Veterans' Treatment Court is a qualified rehabilitation program under § 4177D of Title 21 of the Delaware Code for persons seeking to have their driver's licenses reinstated after a DUI. This Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.