



SPONSOR: Rep. Lynn & Sen. Pettyjohn
Reps. Cooke, Seigfried; Sens. Sokola, Wilson

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 272

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVING UNDER THE INFLUENCE.

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

1 Section 1. Amend § 4177, Title 21 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4177. Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests;
4 and penalties.

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

6 (12)a. The Court of Common Pleas and Justice of the Peace Courts shall not have jurisdiction over offenses
7 which must be sentenced pursuant to paragraph (d)(3), (d)(4), (d)(5), (d)(6), (d)(7), ~~(d)(8)~~ (d)(8), or (d)(9) of this
8 section.

9 b. Except as otherwise provided under paragraph (d)(12)c. or (d)(13) of this section, the Court of
10 Common Pleas has exclusive original criminal jurisdiction in all proceedings in this State concerning a violation of
11 this section that must be sentenced under paragraph (d)(1) or (d)(2) of this section.

12 c. Notwithstanding paragraph (d)(12)b. of this section, a violation of this section is within the jurisdiction
13 of the Superior Court as follows:

14 1. The violation of this section that is otherwise within the exclusive original criminal jurisdiction of
15 the Court of Common Pleas may be joined properly with a felony within the jurisdiction of the Superior
16 Court.

17 2. The violation of this section is charged by indictment or information as an offense that must be
18 sentenced under paragraph (d)(3) through (d)(9) of this section, but is later determined to be an offense that
19 must be sentenced under paragraph (d)(1) or (d)(2) of this section.

20 (13) The Justice of the Peace Court shall have jurisdiction to accept pleas of guilt and to impose sentence for
21 violations of this section that are not subject to sentencing pursuant to paragraphs (d)(3) through (d)(9) of this section
22 and to enter conditional adjudications of guilt requiring or permitting a person to enter a first offender election pursuant

23 to § 4177B of this title. The Justice of the Peace Court shall not have jurisdiction to try any violations of this section. If
24 an offense or criminal case within the exclusive jurisdiction of a justice of the peace or alderman or mayor of any
25 incorporated city or town, except the City of Newark, is or may be joined properly with a violation of this section, such
26 offense or criminal case shall remain joined with any violation of this section for the purpose of trial.

SYNOPSIS

Recently, the Department of Justice has dismissed misdemeanor charges of driving under the influence in the Court of Common Pleas in Sussex County and refiled the same misdemeanor charges in the Superior Court in Sussex County.

This Act ends that practice by vesting exclusive original criminal jurisdiction for a misdemeanor charge of driving under the influence in the Court of Common Pleas. If a misdemeanor charge of driving under the influence otherwise may be joined properly with a felony within the jurisdiction of Superior Court, the violation of this section is within the jurisdiction of Superior Court.