

SPONSOR: Rep. Spiegelman & Rep. Mitchell & Sen. Lopez & Sen. Paradee
Reps. D. Short, Smyk, Bolden; Sens. Hocker, Wilson

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 152
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO IGNITION INTERLOCK DEVICE REQUIREMENTS.

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

Section 1. 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.

(a) The Secretary shall forthwith revoke the driver's license ~~and/or~~ or driving privileges of ~~any~~ a person convicted of a violation of § 4177 of this title or any offense under the laws of any state or of the United States or local jurisdiction or the District of Columbia which prohibits driving under the influence of alcohol or drugs. ~~Such revocation shall be for a period of:~~ The Secretary shall revoke the person's driver's license or driving privileges for one of the following periods, as applicable:

(1) First offense. — 12 months; except that if the ~~offender's~~ person's blood alcohol concentration was ~~between .15-.19~~ .15 or greater, but less than .20, the revocation period ~~shall~~ must be 18 months, or if the ~~offender's~~ person's blood alcohol concentration was .20 or ~~greater~~ greater, or the ~~offender~~ person refused a chemical test, the ~~period of revocation shall~~ revocation period must be 24 months.

(2) Second offense. — 18 months; except that if the ~~offender's~~ person's blood alcohol concentration was ~~between .15-.19~~ .15 or greater, but less than .20, the revocation period ~~shall~~ must be 24 months, or if the ~~offender's~~ person's blood alcohol concentration was .20 or greater, or the ~~offender has~~ person refused a chemical test, the revocation period ~~shall~~ must be 30 months.

(3) Third offense. — 24 months; except that if the ~~offender's~~ person's blood alcohol concentration was ~~between .15-.19~~ .15 or greater, but less than .20, the revocation period ~~shall~~ must be 30 months, or if the ~~offender's~~ person's blood alcohol concentration was .20 or greater, or the ~~offender has~~ person refused a chemical test, the revocation period ~~shall~~ must be 36 months.

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(4) Fourth or further subsequent offenses. — 60 months regardless of the person's blood alcohol concentration.

(b)(1) ~~Any~~ The Secretary shall reinstate the driver's license or driving privileges of a person sentenced under § 4177(d) of this title ~~shall have the person's driver's license and/or driving privileges revoked by the Secretary until~~ if the person ~~has~~ does one of the following:

a. ~~satisfactorily completed a program established pursuant to 4177D of this title and complied with the ignition interlock device requirements set forth in §§ 4177C and 4177G of this title;~~ Completes the requirements for reinstatement under § 4177C(d) of this title.

b. ~~provided however, that successful completion of~~ Completes the requirements for reinstatement under the Court of Common Pleas Driving Under the Influence Treatment Program ~~shall satisfy this requirement.~~ under § 4177C(g) of this title.

(2) The Secretary shall reinstate the driver's license or driving privileges of a person sentenced under § 4177(d) of this title who is not eligible for the IID Program under § 4177G of this title, or who did not apply to obtain an IID license or participate in the IID Program under §§ 4177C and 4177G of this title and whose license revocation period under this section has elapsed, if the person does all of the following:

a. Pays all fees under the schedule adopted by the Secretary.

b. Satisfactorily completes a course or program established under § 4177D of this title.

c. Does not operate a vehicle during the person's revocation period.

(c) ~~The Secretary shall have power and authority to refuse to issue a driver's license to any individual whose driver's license or driving privilege was revoked pursuant to this section until such person has satisfied the Secretary that the person has been of good behavior for the entire period of the revocation and until the person has complied with all applicable provisions of this section. If the Secretary refuses to issue a driver's license after the period of revocation has ended and after all fines and/or fees are paid, the applicant may appeal to the Superior Court of the county of residence.~~

(1) Notwithstanding the requirement in subsection (b) of this section that the Secretary reinstate the driver's license or driving privileges of a person sentenced under § 4177(d) of this title if the person complies with the requirements for reinstatement, the Secretary may refuse to reinstate the person's driver's license or driving privileges if the Secretary finds that the person has not been of good behavior for the entire period of the revocation.

(2) The Secretary must provide the person, in writing, with the basis for the finding and the conditions to be met to reinstate the person's driver's license or driving privileges.

(3) If the Secretary refuses to reinstate the person's driver's license or driving privileges under this subsection after the person's revocation period has ended and the person has paid all fines or fees, the person may appeal the Secretary's decision to the Superior Court for the county in which the person resides.

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

§ 4177B. First offenders; election in lieu of trial.

(a)(1) ~~Any person who:~~ A person qualifies for the first offenders election under this section if the person meets all of the following:

~~(1)~~ a. Has never had a previous or prior conviction or offense as defined in paragraph (e)(1) of this ~~section;~~ section.

~~(2)~~ b. Had not accumulated 3 or more moving violations within 2 years of the date of the offense in question on the person's driving record according to the records of the Division of Motor Vehicles of the person's state of ~~residence; and~~ residence.

~~(3)~~ c. Was not, with respect to the offense in question, involved in an accident resulting in injury to any person other than the person's own ~~self; and~~ self.

~~(4)~~ d. Did not have an alleged blood alcohol concentration of .15 or more at the time of driving or within 4 hours of ~~driving;~~ driving.

~~(5)~~ e. Was not driving without a valid license or under a suspended or revoked license at the time of the offense in ~~question; and~~ question.

~~(6)~~ f. Is not subject to the enhanced penalties of § 4177(d)(10) of this title for carrying a child on or within that person's vehicle while driving under the ~~influence;~~ influence.

(2) ~~may qualify for the first offense election at the time of arraignment.~~ If a person applies and qualifies for the first offenders election under this section, all of the following apply:

a. The court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and shall place the accused on probation upon terms and conditions, including enrollment in a course of instruction or program of rehabilitation established ~~pursuant to~~ under § 4177D of this title.

b. ~~If the accused elects to apply, the application shall constitute~~ The application constitutes a waiver of the right to speedy trial. ~~If the person elects not to apply, or if is not accepted, the person shall promptly be arraigned for a violation of § 4177 of this title.~~

c. ~~If a person applies for or accepts the first offense election under this section, such act shall constitute~~ The application and acceptance of the first offenders election constitutes agreement to pay the costs of prosecution for the ~~case, and the~~ case. The court shall assess such costs and impose them as a condition of probation. For the purposes of this section, costs of prosecution are $250 and any additional costs as established by the appropriate court schedules.

d. ~~If a person accepts the first offense election under this section, such action shall constitute~~ The application constitutes a waiver of the right to an administrative hearing ~~as provided for in~~ under § 2742 of this title and ~~shall act~~ acts to withdraw any request previously made ~~therefor.~~ for such a hearing.

~~For the purposes of this section, costs of prosecution shall be $250 and any additional costs as established by the appropriate court schedules; and~~

(3) If a person elects not to apply for the first offender election under this section, or is not qualified, the court shall promptly arraign the person for a violation of § 4177 of this title.

(b) If a person is alleged to have violated a term or condition of ~~probation is violated,~~ probation, including failure to appear for evaluation at an assigned evaluating agency, ~~the person shall be brought before the court, or if the person fails to appear before the court, in either case, upon a determination by the court that the terms have been violated,~~ the court shall hold a hearing to determine if a term or condition has been violated and, if so, shall enter an adjudication of guilt and proceed as otherwise provided under § 4177 of this title.

(1) The court shall provide notice of the hearing required under this section and the alleged violation of a term or condition of probation to the person.

(2) If the person fails to appear for the hearing required under this section, the court may proceed with the hearing.

(c)(1) ~~Upon fulfillment of~~ If a person fulfills the terms and conditions of probation, including satisfactory completion of the course of instruction ~~and/or~~ or program of rehabilitation, and payment of all fees, the court shall do both of the following:

a. ~~discharge~~ Discharge the person and the proceedings against the ~~person and~~ person.

b. ~~shall simultaneously with said discharge and dismissal submit~~ Submit to the Division of Motor Vehicles a written report specifying the name of the person and the nature of the proceedings against the ~~person~~ person.

(2) ~~which report shall be retained by the~~ The Division of Motor Vehicles shall retain the report issued under paragraph (c)(1)b. of this section for further proceedings, if required.

(d) The Secretary shall forthwith revoke the driver's license ~~and/or~~ or driving privileges of a person ~~applying~~ who applies for ~~enrollment in an education or rehabilitation program pursuant to~~ the first offender election under subsection (a) of this section ~~shall forthwith be revoked by the Secretary~~ for a period of 1 year.

(1) If the person ~~is accepted into the education or rehabilitation program the period of revocation shall be~~ qualifies for and accepts the first offender election, the revocation period is for 1 year from the date of the initial revocation.

(2) If the person ~~is not accepted for enrollment,~~ does not qualify for, or is not accepted into, the first offender election, or if the person is found by the court to be in violation of ~~the terms of enrollment,~~ a term or condition of probation, the revocation period under this section ~~shall continue~~ continues until sentence is imposed. This revocation ~~shall not be~~ period is not concurrent with or part of any ~~period of revocation~~ other revocation period established under ~~any other provisions of~~ this subchapter and ~~shall be~~ is effective as of the date of sentencing for a period of 1 year.

(e)(1) Prior or previous conviction or offense. — For purposes of §§ 2742 and 4177 of this title and this ~~section the provisions of~~ section, § 4215A of Title 11 ~~shall not be applicable~~ does not apply. ~~but instead~~ Instead, all of the following ~~shall constitute~~ constitute a prior or previous conviction or offense:

a. A conviction or other adjudication of guilt or delinquency ~~pursuant to~~ under § 4175(b) or § 4177 of this ~~title,~~ title or a similar statute of any state or local jurisdiction, any federal or military ~~reservation~~ reservation, or the District of ~~Columbia;~~ Columbia.

b. A conviction or other adjudication of guilt or delinquency under a criminal statute encompassing death or injury caused to another person by the person's driving where driving under the influence or with a prohibited blood alcohol concentration or an illicit or recreational drug content was an element of the offense, whether such conviction was ~~pursuant to a provision of~~ under this Code or the law of any ~~state,~~ state or local jurisdiction, any federal or military ~~reservation~~ reservation, or the District of ~~Columbia;~~ Columbia.

c. Participation in a course of instruction or program of rehabilitation or education ~~pursuant to § 4175(b) of this title,~~ under § 4175(b) or § 4177 of this ~~title or~~ title, this section, or a similar statute of any ~~state,~~ state or local jurisdiction, any federal or military ~~reservation~~ reservation, or the District of Columbia, regardless of the existence or validity of any accompanying attendant plea or adjudication of ~~guilt;~~ guilt.

d. A conditional adjudication of guilt, ~~any~~ court order, or ~~any~~ agreement sanctioned by a court requiring or permitting a person to apply for, enroll ~~in~~ in, or otherwise accept first offender treatment or any other diversionary program under this section or a similar statute of any ~~state,~~ state or local jurisdiction, any federal or military ~~reservation~~ reservation, or the District of Columbia.

(2) Time limitations. — For the purpose of determining the applicability of enhanced penalties ~~pursuant to~~ under § 4177 of this title, the time limitations on use of prior or previous convictions or offenses ~~as defined by~~ under this subsection ~~shall be:~~ are as follows:

a. For sentencing ~~pursuant to~~ under § 4177(d)(2) of this title, the second offense must have occurred within 10 years of a prior ~~offense;~~ or previous offense.

b. For sentencing ~~pursuant to~~ under § 4177(d)(3), (d)(4), (d)(5), (d)(6), (d)(7), ~~(d)(8)~~ (d)(8), or (d)(9) of this ~~title there shall be no~~ title, there is not a time limitation and all prior or previous convictions or offenses as defined in paragraph (e)(1) of this section ~~shall~~ must be considered for sentencing.

c. For any subsection that does not have a time limitation prescribed, all prior or previous convictions or offenses as defined in paragraph (e)(1) of this section ~~shall~~ must be considered.

(3) Computation of time limitations. — For the purpose of computing the periods of time ~~set out in~~ ~~§ 2742 of this title,~~ under § 2742 or § 4177 of this title or this section, the period ~~shall run~~ runs from the date of the commission of the prior or previous offense to the date of the commission of the charged offense. However, in any case in which the prior or previous offense is defined in paragraph (e)(1)c. or d. of this section, the date of the driving incident which caused the adjudication or program participation ~~shall be~~ is the date of the prior or previous offense.

(4) Separate and distinct offenses. — For the purpose of determining the applicability of enhanced penalties ~~pursuant to~~ under § 4177 of this title, prior or previous convictions or offenses used to determine eligibility for such enhanced penalties must be separate and distinct offenses; that is, each must be successive to the other with some period of time having elapsed between sentencing or adjudication for an earlier offense or conviction and the commission of the offense resulting in a subsequent conviction.

(5) Challenges to use of prior offenses. — In any proceeding under ~~§ 2742 of this title,~~ § 2742 or § 4177 of this title or this section, a person may not challenge the validity of any prior or previous conviction, unless that person first successfully challenges the prior or previous conviction in the court in which the conviction arose and provides written notice of the specific nature of the challenge in the present proceeding to the prosecution at least 20 days before trial.

(f)(1) The Attorney General may move the sentencing court to apply this section to ~~any~~ a person who would otherwise be disqualified from consideration under this section because of the applicability ~~of:~~ of any of the following:

~~(1)~~ a. Paragraph (a)(1)a. of this section, if any prior or previous offense as defined in subsection (e) of this section is not within 10 years of the offense for which the person is being ~~sentenced; or~~ sentenced.

~~(2)~~ b. Paragraphs ~~(a)(2), (a)(3), (a)(4), (a)(5) and (a)(6)~~ (a)(1)b., (a)(1)c., (a)(1)d., (a)(1)e., and (a)(1)f. of this section.

~~(3)~~ c. [Repealed.]

(2) ~~In the event of such a motion by~~ If the Attorney ~~General,~~ General makes a motion under paragraph (f)(1) of this section, the court may ~~in its discretion~~ apply the terms of this section to ~~that~~ the person.

(g) [Repealed.]

Section 3. 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.

(a) ~~Any~~ A person who ~~has entered~~ enters a first ~~offense~~ offender election ~~pursuant to~~ under § 4177B of this title ~~shall be~~ is immediately eligible to apply for an ignition interlock device (IID) license under ~~the following terms:~~ § 4177G(f) of this title if all of the following apply:

(1) All licenses have been surrendered to the Division of Motor Vehicles ~~prior to~~ before issuance of the IID ~~(ignition interlock device)~~ license.

(2) ~~The person has installed an IID on a minimum of 1 vehicle owned or operated by the individual or may have the device installed on a vehicle owned by another person if there are no vehicles owned by the offender.~~

The person has an IID installed on each vehicle the person will, or does, operate during the period under paragraph (d)(4) of this section, regardless of whether the vehicle is owned by the person.

(b) ~~Any~~ A person who, as a first ~~offender~~ offender, is sentenced ~~pursuant to~~ under § 4177(d) of this title, and is enrolled in a course of instruction ~~and/or~~ or program of rehabilitation ~~pursuant to~~ under § 4177D of this title ~~shall be~~ is eligible to apply for an IID license under ~~the following terms:~~ § 4177G(f) of this title if all of the following apply:

(1) The following time period has elapsed since the effective date of the person's revocation period:

a. At least 30 ~~days has elapsed since the effective date of the revocation~~ days, if the person's blood alcohol concentration was below ~~.15; or~~ .15.

b. At least 45 ~~days has elapsed since the effective date of the revocation~~ days, if the person's blood alcohol concentration was .15 or greater.

(2) All licenses have been surrendered to the Division of Motor Vehicles ~~prior to~~ before issuance of the IID license.

(3) ~~The person has installed an IID on a minimum of 1 vehicle owned or operated by the individual or may have the device installed on a vehicle owned by another person if there are no vehicles owned by the offender.~~ The

person has an IID installed on each vehicle the person will, or does, operate during the period under paragraph (d)(4) of this section, regardless of whether the vehicle is owned by the person.

(c) ~~Any~~ A person who, as a second or subsequent ~~offender~~ offender, is sentenced ~~pursuant to~~ under § 4177(d) of this ~~title, shall be~~ title is eligible to apply for an IID license under ~~the following terms:~~ § 4177G(f) of this title if all of the following apply:

(1) The following time period has elapsed since the effective date of the person's revocation period:

a. ~~For~~ At least 60 days, for a person sentenced as a second offender ~~pursuant to~~ under § 4177(d) of this ~~title, at least 60 days have elapsed since the effective date of the revocation;~~ title.

b. ~~For~~ At least 90 days, for a person sentenced as a third offender ~~pursuant to~~ under § 4177(d) of this ~~title, at least 90 days have elapsed since the effective date of the revocation;~~ title.

c. ~~For~~ At least 6 months, for a person sentenced as a fourth or subsequent offender ~~pursuant to~~ under § 4177(d) of this ~~title, at least 6 months have elapsed since the effective date of the revocation.~~ title.

(2) The person is enrolled in or has satisfactorily completed a course of instruction ~~and/or~~ or program of rehabilitation ~~pursuant to~~ under § 4177D of this title.

(3) All licenses have been surrendered to the Division of Motor Vehicles ~~prior to~~ before issuance of the IID license.

(4) ~~The person has installed an IID on all vehicles owned or operated by the individual or may have the device installed on a vehicle owned by another if there are no vehicles owned by the offender.~~ The person has an IID installed on each vehicle the person will, or does, operate during the period under paragraph (d)(4) of this section, regardless of whether the vehicle is owned by the person.

(d) Reinstatement of license. — Notwithstanding §§ 4177A(a) and 4177B(d) of this title, ~~any~~ the Secretary shall reinstate the driver's license or driving privileges of a person who has ~~satisfactorily completed a course and/or program established pursuant to § 4177D of this title, shall be permitted to apply for reinstatement of their driver's license and/or driving privilege under the following terms:~~ done all of the following:

(1) ~~Payment of~~ Paid all fees under the schedule adopted by the ~~Secretary;~~ Secretary.

(2) Satisfactorily completed a course or program established under § 4177D of this title.

(3) Satisfactorily completed the IID program under § 4177G of this title or, if disqualified from the program under § 4177G(f)(4) of this title, did both of the following during the entire balance of the person's revocation period plus any extensions under § 4177(f)(3) of this title:

a. Not operate a vehicle.

b. Kept an IID on each vehicle on which it was installed on the date of disqualification from the IID program.

(4) Meets one of the following:

a. For a person who ~~elected to enroll in a course of instruction or program of rehabilitation pursuant to~~ enters a first offenders election under § 4177B of this title, at least 4 months have elapsed since the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (a)(2) of this section and the ~~ignition interlock~~ IID license was issued.

~~(3)~~ b. For a person sentenced for a first offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was below .15, at least 12 months have elapsed since the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (b)(3) of this section and the ~~ignition interlock~~ IID license was issued.

~~(4)~~ c. For a person sentenced for a first offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was ~~.15 to .19,~~ .15 or greater, but less than .20, at least 17 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (b)(3) of this section and the ~~ignition interlock~~ IID license was issued.

~~(5)~~ d. For a person sentenced for a first offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was .20 or greater, at least 23 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (b)(3) of this section and the ~~ignition interlock~~ IID license was issued.

~~(6)~~ e. For a person sentenced for a second offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was below .15, at least 16 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

~~(7)~~ f. For a person sentenced for a second offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was ~~.15 to .19,~~ .15 or greater, but less than .20, at least 22 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

~~(8)~~ g. For a person sentenced for a second offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was .20 or greater, at least 28 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

~~(9)~~ h. For a person sentenced for a third offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was below .15, at least 21 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

~~(10)~~ i. For a person sentenced for a third offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was ~~.15 to .19,~~ .15 or greater, but less than .20, at least 27 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

~~(11)~~ j. For a person sentenced for a third offense ~~pursuant to~~ under § 4177 of this title, whose blood alcohol concentration was .20 or greater, at least 33 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

~~(12)~~ k. For a person sentenced for a fourth or further subsequent offense ~~pursuant to~~ under § 4177 of this title, at least 54 months have elapsed since ~~the day~~ the IID was installed on ~~the vehicle or vehicles~~ each vehicle as required under paragraph (c)(4) of this section and the ~~ignition interlock~~ IID license was issued.

(e) Notwithstanding any other provision to the contrary, ~~any~~ a person whose blood alcohol concentration is less than ~~.08~~ .08, and does not otherwise have an illicit or recreational drug content in the person's blood, must be granted a conditional license immediately upon application, if otherwise eligible, and may not be required to complete a course of instruction established under § 4177D of this title before the issuance of the conditional license if the person meets any of the following:

~~(1)~~ a. ~~who is~~ Is convicted of a first offense ~~pursuant to~~ under § 4177 of this ~~title,~~ title.

~~(2)~~ b. ~~who makes~~ Makes a first ~~offense~~ offenders election ~~pursuant to~~ under § 4177B of this ~~title, or~~ title.

~~(3)~~ c. ~~whose license is~~ Has a license revoked for a first offense ~~pursuant to~~ under Chapter 27 of this title, where it is not established that the person was under the influence of any other ~~intoxicating substance, shall be granted a conditional license immediately upon application, and shall not be required to complete a course of instruction established under 4177D of this title.~~ intoxicating or impairing substance or with an illicit or recreational drug content in the person's blood.

~~Nothing in this subsection shall be read to imply that an individual with a alcohol concentration of less than .08 is under the influence of alcohol.~~

(f)(1) Notwithstanding any other provision to the contrary, ~~any~~ 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,~~ Program (Treatment Program), and is enrolled in a program of education or rehabilitation ~~and treatment, pursuant to~~ treatment under § 4177(f) or § 4177D of this ~~title,~~ title supervised by that ~~Court shall be~~ Court, is eligible to have ~~a conditional~~ an IID license in accordance with this subsection.

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

(3) If ~~the~~ a person chooses to obtain ~~a conditional~~ an IID license, or has any registered vehicles, the person ~~shall be required to have an ignition interlock device installed~~ must install an IID on ~~all vehicles~~ each vehicle registered in that person's name.

(4) ~~Alternatively,~~ Notwithstanding paragraph (f)(3) of this section, ~~the person has the option to have the device installed~~ a person must install an IID on a vehicle ~~or vehicles~~ owned by another person, with the permission of that person, if there are no vehicles registered in the ~~name of the offender.~~ person's name.

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

(6) ~~That offender may be~~ A person in the Treatment Program is eligible to apply for an ~~ignition interlock device~~ IID license under ~~the following terms:~~ § 4177G(f) of this title if all of the following apply:

~~(1)~~ a. At least 30 days have elapsed since the effective date of the ~~revocation;~~ revocation.

~~(2)~~ b. All licenses have been surrendered to the Division of Motor Vehicles ~~prior to~~ before issuance of the IID ~~(Ignition Interlock Device) license; and~~ license.

~~(3)~~ c. The ~~participant~~ person is not in violation of any terms of the ~~Court of Common Pleas DUI~~ Treatment Program.

(g) Notwithstanding §§ 4177A(a) and 4177B(d) of this title, ~~any~~ 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, shall be permitted to apply for reinstatement of their driver's license and/or driving privilege under the following terms:~~ Program and has done all of the following:

(1) ~~Payment of~~ Paid all fees under the schedule adopted by the ~~Secretary;~~ Secretary.

(2) ~~Payment of~~ Paid all court fines, ~~costs and fees; and~~ costs, and fees.

(3) ~~At~~ Had at least ~~12 months have elapsed~~ 9 months elapse since ~~the day the ignition interlock device~~ one of the following occurred:

a. The IID was installed on ~~the vehicle or vehicles~~ a vehicle as required under this subsection and the ~~ignition interlock~~ IID license was ~~issued or~~ issued.

b. ~~since the day~~ The person's driving privileges were revoked if ~~no conditional license was sought.~~ the person did not seek an IID license.

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

§ 4177G. Ignition Interlock Device Program.

(a) Participation. — ~~All persons convicted of an offense~~ An offender must participate in the Ignition Interlock Device Program ~~as specified herein.~~ as provided under this section.

(b) Definitions. — For the purpose of this section:

(1) "Ignition interlock device" (IID) ~~or "approved device" shall mean~~ means ignition equipment approved by the Director of the Division of Motor Vehicles ~~pursuant to~~ under this section, designed to prevent a ~~motor~~ vehicle from being operated by a person who has consumed alcoholic beverages.

(2) "Lockout" means any time an offender attempts to use a ~~motor~~ vehicle equipped with an IID and any percentage of alcoholic beverages is measured ~~on said device.~~ by the IID.

(3) "Offender" means a person who has accepted a first offender election ~~pursuant to~~ under § 4177B of this title or been convicted of violating § 4177 of this title.

(4) "Offense" means a first offenders election ~~pursuant to~~ under § 4177B of this title or a conviction ~~pursuant to~~ under § 4177 of this title.

(5) "Service provider" means a legal entity which the Director of the Division of Motor Vehicles finds complies with the requirements of this section and approves to install IIDs on ~~participants' motor vehicles.~~ vehicles operated by offenders.

(c) IID Standards. — The Division of Motor Vehicles shall establish the required calibration setting and shall provide standards for the certification, installation, setting, ~~repair~~ repair, and removal of the IIDs.

(d) Requirements. —

(1) ~~Every offender shall be subject to the ignition interlock requirements of this section and § 4177C of this title during any period of revocation imposed for an offense. If at any time before the end of the revocation period, the person registers a motor vehicle(s) in the person's name, that person shall immediately install an ignition interlock~~

~~device in such vehicle(s).~~ An offender who is eligible under subsection (f) of this section is subject to the ignition interlock requirements of this section and § 4177C of this title during the offender's revocation period for an offense.

(2) ~~Except as otherwise provided in § 4177C of this title for first offenders, a person~~ An offender covered under paragraph (d)(1) of this section must have the ~~ignition interlock device~~ IID ~~installed in all motor vehicles that the person owns or operates, or both, for the required minimum periods as specified in § 4177C(d) of this title prior to the reinstatement of~~ IID installed on each vehicle the offender will, or does, operate during the period under § 4177C(d)(4) of this title before the Secretary is authorized to reinstate that person's driver's license or driving privileges, regardless of whether the vehicle is owned by the person.

(3) An offender's driving record maintained by the Division of Motor Vehicles ~~shall~~ must indicate any revocation period to be served under the IID program. The Division of Motor Vehicles shall issue an IID license to an otherwise eligible ~~participant~~ offender. ~~Each of the~~ The offender's IID license, the registration of the vehicle on which the IID is ~~installed~~ installed, and the ~~participant's~~ offender's driving record maintained by the Division of Motor Vehicles ~~shall~~ must indicate that the ~~participant shall~~ offender may not operate any ~~motor~~ vehicle except when such vehicle is equipped with an IID.

(e) Installment payment of costs; indigent program. — The Division of Motor Vehicles shall establish a payment plan for all persons obtaining an IID under this section. The plan ~~shall~~ must be administered by the service ~~provider(s)~~ provider and the person obtaining the IID shall make all payments under the plan to the service ~~provider(s)~~ provider. The Division of Motor Vehicles shall further develop and implement an indigent plan for impoverished persons. Any person who makes application for an indigent plan ~~shall~~ must meet certain criteria and provide specific documentation to be approved by the Division of Motor Vehicles.

(f) IID license. —

(1) ~~All persons convicted of an offense shall be eligible for an IID license as set forth in § 4177C of this title if the following conditions are met:~~ The Secretary shall issue an IID license to an offender if the offender is eligible to, and does, apply for the license under § 4177C(a), (b), (c), or (f)(6) of this title and the offender meets all of the following:

a. ~~The offender must be a Delaware resident;~~ At the time of the offense is a Delaware resident with a valid Delaware license.

b. ~~The offender has had an IID installed on a minimum of 1 vehicle owned or operated, or both, by the individual; provided, however, that a person convicted of a second, third, fourth or greater offense pursuant to § 4177 of this title must have an IID installed on each of the motor vehicles owned or operated, or both, by the~~

~~individual;~~ Has an IID installed on each vehicle the offender will, or does, operate during the period under § 4177C(d)(4) of this title, regardless of whether the vehicle is owned by the person.

c. ~~The offender's driving privileges or license must not be currently~~ Does not have a driver's license or driving privileges that are suspended, revoked, ~~denied~~ denied, or unavailable for any other ~~violations~~ violation of the law of any jurisdiction that would prohibit the issuance of the ~~IID,~~ IID license, unless it is determined by the Secretary ~~of Transportation~~ or the Secretary's designee that the ~~individual~~ offender is eligible for ~~reinstatement;~~ reinstatement.

d. ~~The offender's driving privilege or license must not be revoked pursuant to~~ Does not have a driver's license or driving privileges that are revoked under § 1009 of Title 10 or a ~~like provision~~ similar law of another ~~jurisdiction;~~ jurisdiction.

e. ~~The offender must install an IID in all motor vehicles that person will operate;~~ [Repealed.]

f. ~~The offender must either own the motor~~ Own a vehicle in which the IID is to be installed or file the notarized approval of installation by the ~~motor vehicle owner~~ owner of a vehicle in which the IID is to be installed with the Division of Motor ~~Vehicles;~~ Vehicles.

g. ~~The offender must provide~~ Provide proof of insurance for ~~the~~ a vehicle on which the IID ~~will or has been~~ is to be installed. ~~The proof of insurance must verify that the offender is permitted to drive the specific motor vehicle in question regardless of ownership of the vehicle;~~

h. ~~The offender shall meet~~ Meet any other eligibility criteria established by § 4177C of this title or by regulations of the Division of Motor Vehicles.

(2) ~~An offender shall lose the privilege of having an IID license for failure to comply with~~ The Secretary shall revoke an offender's IID license if the offender does any of the following:

a. ~~The offender shall~~ Fails to abide by the terms of the ~~subsequent offender's~~ IID lease with the service provider as approved by the Division of Motor ~~Vehicles;~~ Vehicles.

b. ~~The offender shall~~ Fails to comply with the Division of Motor ~~Vehicles~~ Vehicles' regulations concerning offender IID license ~~restrictions;~~ restrictions.

c. ~~The offender shall not attempt, nor allow or cause~~ Attempts, allows, or causes an attempt to bypass, tamper with, ~~disable~~ disable, or remove the IID or its wires in ~~connection;~~ connection.

d. ~~The offender shall not attempt~~ Attempts to operate a ~~motor~~ vehicle without possessing registration and an IID license ~~which~~ that complies with this ~~section;~~ section.

e. ~~The offender shall not violate~~ Violates any section of this title relating to the use, ~~possession~~ possession, or consumption of ~~alcohol or intoxicating~~ alcohol or intoxicating or impairing ~~substances;~~ substances.

f. ~~The offender shall accumulate no~~ Accumulates more than 5 points per ~~year;~~ year.

g. ~~The offender shall~~ Fails to continue to meet all eligibility criteria identified in paragraph (f)(1) of this ~~section;~~ section.

h. ~~The offender shall~~ Fails to provide proof to the Division of Motor Vehicles that an approved IID has been installed ~~prior to~~ before being issued an IID ~~license;~~ license.

i. ~~The offender shall not fail or refuse~~ Fails or refuses to take random tests at such times and by such means as the Division of Motor Vehicles ~~requires;~~ requires.

j. ~~The offender shall~~ Fails to keep scheduled appointments with the Division of Motor Vehicles and the service ~~provider; and~~ provider.

k. ~~The offender shall be required~~ Fails to report to the service provider on a monthly basis for service of the approved IID.

(3) Extension of program participation. —

a. The Secretary ~~of the Department of Transportation~~ or the Secretary's designee shall extend the ~~participant's~~ offender's revocation period ~~and/or~~ or participating requirement in the IID program upon a determination by the Secretary or the Secretary's designee that the ~~participant~~ offender has failed to comply with the requirements of subsection (d) of this section for any of the following actions:

~~a.~~ 1. Each BAC reading of .05 or ~~above;~~ above.

~~b.~~ 2. Running retest ~~violation;~~ violation.

~~c.~~ 3. Each missed monitoring ~~appointment;~~ appointment.

~~d.~~ 4. Start up violation; IE lock-out ~~failure;~~ failure.

~~e.~~ 5. Tampering with or bypassing the interlock ~~system;~~ system.

~~f.~~ 6. Intentional circumvention of the interlock system or program ~~requirements; or~~ requirements.

~~g.~~ 7. Any other noncompliance of program requirements specified in paragraph (f)(2) of this section as deemed by the Secretary or the Secretary's designee.

b. ~~A 2-month extension shall be required for any combination of 3 of the above actions. A 4-month extension shall be required for any combination of 5 of the above actions. A 6-month extension shall be required for any combination of 8 of the above actions. An additional 1 month shall be required for each action listed~~

~~greater than 8.~~ The Secretary shall extend the offender's revocation period or participating requirement in the IID program as follows:

1. For 2 months for any combination of 3 of the actions under paragraph (f)(3)a. of this section.

2. For 4 months for any combination of 5 of the actions under paragraph (f)(3)a. of this section.

3. For 6 months for any combination of 8 of the actions under paragraph (f)(3)a. of this section.

4. An additional 1 month for each action under paragraph (f)(3)a. of this section in excess of 8.

(4) Disqualification. — The Secretary ~~of the Department of Transportation,~~ or the Secretary's ~~designee~~ designee, upon 10 days prior notice by certified mail, may disqualify ~~a participant~~ an offender at any time upon a determination by the Secretary that the participant has failed to comply with any of the requirements of paragraph ~~(f)(3)g.~~ (f)(3)a.7. of this section. Upon disqualification, the ~~ignition interlock device~~ IID must remain on the offender's ~~vehicle~~ vehicle, or a vehicle on which the IID was installed, for the balance of the period required based on the offender's revocation period and ~~above extensions,~~ extensions under paragraph (f)(3)b. of this section, however, no driving authority will be granted during this remaining period. The ~~participant will be~~ offender is responsible for all fees for the ~~device~~ IID during this period.