

CHAPTER 378  
FORMERLY  
SENATE BILL NO. 260

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE TO ALLOW FOR PARTICIPATION IN A DRIVING UNDER THE INFLUENCE TREATMENT PROGRAM BY DUI OFFENDERS.

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

Section 1. Amend § 4177C, Title 21 of the Delaware Code as follows:

§ 4177C Conditional licenses; reinstatement of license.

(i) Notwithstanding any other provision to contrary, any 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, and is enrolled in a program of rehabilitation and treatment, pursuant to 4177(f) or 4177D of this Title, supervised by that Court shall be eligible to have a conditional license in accordance with this subsection. A person may enter the Treatment Program without seeking a conditional license. If the person chooses to obtain a conditional license, or has any registered vehicles, the person shall be required to have an ignition interlock device installed on all vehicles registered in that person's name. Alternatively, the person has the option to have the device installed 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. The ignition interlock device shall be immediately installed on eligible vehicles following the effective date of entry into the Driving Under the Influence Treatment Program. The ignition interlock device shall 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. That offender may be eligible to apply for an ignition interlock device license under the following terms:

- (1) At least 30 days have elapsed since the effective date of the revocation;
- (2) All licenses have been surrendered to the Division of Motor Vehicles prior to issuance of the IID (Ignition Interlock Device) license; and
- (3) The participant is not in violation of any terms of the Court of Common Pleas DUI Treatment Program.

(j) Notwithstanding §§ 4177A and 4177B of this title, any 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:

- (1) Payment of all fees under the schedule adopted by the Secretary;
- (2) Payment of all Court fines, costs and fees; and
- (3) At least 10 months have elapsed since the day the ignition interlock device was installed on the vehicle or vehicles and the ignition interlock license was issued or since the day driving privileges were revoked if no conditional license was sought.

Section 2. Amend § 4177A(b), Title 21 of the Delaware Code as follows:

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

(b) Any 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 the person has satisfactorily completed a program established pursuant to § 4177D of this title; provided however, that successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

Section 3. Amend § 4177(f), Title 21 of the Delaware Code as follows:

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

(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 completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

Section 4. Amend § 4177D, Title 21 of the Delaware Code as follows:

§ 4177D Courses of instruction; rehabilitation programs.

The Secretary of Safety and Homeland Security, through the Office of Highway Safety shall establish courses of instruction and programs of rehabilitation for persons whose drivers' licenses have been revoked for operating a vehicle while under the influence of intoxicating liquor or drugs. The Secretary of Safety and Homeland Security shall administer such courses and programs and adopt rules and regulations therefor, and shall establish a schedule of fees for enrollment in such courses and programs which shall not exceed the maximum fine imposed for the offense as set forth in § 4177 of this title. Successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall be considered equivalent to a course of instruction and/or rehabilitation approved under this section.

Section 5. Amend § 4177(d) (2), Title 21 of the Delaware Code 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 complete the Court of Common Pleas Driving Under the Influence Treatment Program.

Section 6. Amend § 2732(a)(3), Title 21 as follows:

§ 2732 Mandatory revocation or suspension of 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 completion of the Court of Common Pleas Driving Under the Influence Treatment Program the revocation may be rescinded;

Section 7. This Act shall become effective on August 15, 2014.

Approved July 31, 2014