



SPONSOR: Rep. Valihura & Sen. Vaughn

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 312

AN ACT TO AMEND TITLES 10, 11, 21 AND 30 OF THE DELAWARE CODE RELATING TO THE CLASSIFICATION OF CERTAIN MINOR OFFENSES AS CIVIL INFRACTIONS.

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

Section 1. Amend § 233, Title 11 of the Delaware Code by adding a new subsection “(d)” thereto to read as follows:

“(d) Notwithstanding any contrary provision of this Section or any other law, rule or regulations, a civil infraction as that term is defined in this Code shall not be deemed to be a crime or offense as defined in this Section.”.

Section 2. Amend Title 11 of the Delaware Code by adding a new § 236 thereto which shall read as follows:

“§ 236. Definition of civil infraction.

(a) ‘Civil infraction’ means any violation of any statute in this Code that is explicitly designated as a civil infraction by such statute or by a statute directly related thereto, and for which no imprisonment may be imposed nor any assessment in excess of \$1,150.

(b) Notwithstanding any contrary provisions of § 233 of this Title or any other law, rule or regulation, no violation of a statute in this Code that is explicitly designated as a civil infraction shall be considered to be a crime or offense as defined in § 233 of this Title.

(c) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise, there shall be no entry on the criminal record or motor vehicle operating record of a person held liable for an assessment for a civil infraction. Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise, no motor vehicle points shall be assessed against any person held liable for an assessment for a civil infraction.”.

Section 3. Amend § 2701(a), Title 11 of the Delaware Code by deleting the first sentence of that subsection and substituting in lieu thereof the following:

“(a) The justices of the peace shall have original jurisdiction to hear, try and finally determine all violations and civil infractions alleged to have been committed.”.

21 Section 4. Amend § 2701(b), Title 11 of the Delaware Code by deleting the first two sentences of that subsection and by  
22 substituting in lieu thereof the following:

23 “(b) The Court of Common Pleas for the State shall have original jurisdiction to hear, try and finally determine all  
24 misdemeanors, violations and civil infractions alleged to have been committed within the State, except where  
25 jurisdiction over such infractions or offenses is vested exclusively in another Court.

26 The Court of Common Pleas shall have original jurisdiction to hear, try and finally determine all offenses and  
27 civil infractions committed within the City of Wilmington against any of the laws, ordinances, regulations or  
28 charter of the City.”.

29 Section 5. Amend § 5301, Title 11 of the Delaware Code by adding a subsection “(d)” thereto to read as follows:

30 “(d) Notwithstanding any law, rule or regulation to the contrary, any civil infraction that is within the exclusive or  
31 original jurisdiction of another Court and which may be joined properly with civil infractions, crimes or  
32 offenses that are within the jurisdiction of this Court shall also be deemed to be within the jurisdiction of this  
33 Court. The proceedings in any case in which a civil infraction and crimes or offenses have been properly  
34 joined shall be governed by the rules of criminal procedure applicable to the crimes or offenses so joined.”.

35 Section 6. Amend § 5303, Title 11 of the Delaware Code by designating the entirety of the language of that Section as  
36 subsection “(a)” thereof and by adding a subsection “(b)” thereto to read as follows:

37 “(b) Where a justice of the peace or alderman or mayor of any incorporated city or town has jurisdiction and  
38 power to hear and finally determine the matter, no person may elect to have a case that involves only a civil  
39 infraction or civil infractions tried by the Court.”.

40 Section 7. Amend § 5901, Title 11 of the Delaware Code by designating the entirety of the language of that Section as  
41 subsection “(a)” thereof and by adding a subsection “(b)” thereto to read as follows:

42 “(b) No person may elect to have a case that involves only a civil infraction or civil infractions tried by the Court  
43 of Common Pleas.”.

44 Section 8. Amend Chapter 19, Title 11 of the Delaware Code by adding a new Section thereto designated as § 1902A,  
45 which shall read as follows:

46 “§ 1902A. Stop for civil infraction.

47 (a) Notwithstanding any law, rule or regulation to the contrary, a peace officer is authorized to make an  
48 administrative stop of any person abroad, or in a public place, for purposes of enforcing any provision of this

Code designated as a civil infraction when the officer has a reasonable and articulate suspicion that a violation of such a provision of this Code has occurred.

- (b) A person who is stopped pursuant to subsection (a) of this Section is required to identify himself or herself to the peace officer by giving his or her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver's license, proof of insurance or other identifying documents. A person who fails to reasonably identify himself or herself to a peace officer may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a summons or notice for the civil infraction.
- (c) An administrative stop made pursuant to this Section is not an arrest and shall not be recorded as an arrest in any official record.”.

Section 9. Amend Chapter 19, Title 11 of the Delaware Code by adding a new Section thereto designated as § 1907A, which shall read as follows:

“§ 1907A. Summons for civil infraction.

- (a) An investigating police officer may issue a summons to a person for purposes of enforcing any provision of this Code designated as a civil infraction upon reasonable and articulable suspicion that a violation of such a provision of this Code has occurred. The summons issued shall be for an appearance at a subsequent date before a Justice of the Peace Court which is located in the same County wherein the infraction occurred, unless a Justice of the Peace Court located in another County is closer to the place where the infraction occurred, in which case the investigating officer may summon the person to appear at a subsequent date before said Court.
- (b) Any summons for a civil infraction issued pursuant to this subsection shall be in a written form substantially similar to that provided for in § 1907 of this Title, where appropriate, in the form of a Uniform Traffic Complaint and Summons as provided for in Title 21 of this Code.
- (c) If the person fails to appear in answer to the summons he or she shall be subject to the provisions of § 1907 of this Title, the provisions of § 702 of Title 21 or the provisions of Chapter 76 of Title 10.”.

Section 10. Amend § 701, Title 21 of the Delaware Code by substituting the word “stops” for the word “arrests” as it appears in subsection (c) of that Section and by redesignating subsections (c), (d) and (e) of that Section as subsections (d), (e) and (f) thereto respectively.

Section 11. Further amend § 701, Title 21 of the Delaware Code by striking the language of the catchline and subsections

(a) and (b) of that Section in its entirety and by substituting in lieu thereof the following:

“§ 701. Arrest without warrant for motor vehicle violations; administrative stops for civil traffic infractions.

(a) The Secretary of Public Safety, the Secretary of Safety and Homeland Security’s deputies, Division of Motor Vehicles investigators, State Police, state detectives and other police officers authorized by law to make arrests for violation of the motor vehicle and traffic laws of this State, provided such officers are in uniform or displaying a badge of office or an official police identification folder, may arrest a person without a warrant:

(1) For any violation of this Title, other than one designated as a civil infraction as defined in § 236 of Title 11, that is committed in their presence; or

(2) For any violation of this Title, other than one designated as a civil infraction as defined in § 236 of Title 11, when the violation is determined by personal observation by another law enforcement officer who communicates the information to the arresting officer by radio or other telecommunications device, provided that the arresting officer is working in conjunction with the observing officer, the arresting officer is immediately advised of the violation and the vehicle being apprehended is the vehicle detected.

(b) Any law enforcement officer authorized to arrest without warrant under subsection (a) of this Section is further authorized at the scene of a motor vehicle accident, upon reasonable and probable cause to believe, based upon personal investigation which may include information obtained from eyewitnesses, that a violation of this Title, other than one designated as a civil infraction as defined in § 236 of Title 11, has been committed by any person then and there present, to arrest such person without a warrant of arrest.

(c) (1) Notwithstanding any contrary provision of any law, rule or regulation, any law enforcement officer authorized to arrest without warrant under subsections (a) or (b) of this Section is further authorized to make an administrative stop for purposes of enforcing any provision of this Title designated as a civil infraction as defined in § 236 of Title 11, upon reasonable and articulable suspicion that a violation of such a provision of this Title has occurred.

(2) Whenever any person is stopped for a civil infraction set forth in this Title, the law enforcement officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person’s driver’s license or driving privileges, insurance

105 identification card, and the vehicle's registration, and complete and issue a summons for or notice of the  
106 civil infraction.

107 (3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an  
108 investigation of a civil infraction set forth in this Title has a duty to identify himself or herself, give his  
109 or her current address, and sign an acknowledgement of receipt of the summons for or notice of the civil  
110 infraction.

111 (4) Nothing in this subsection shall be deemed to preclude the continued detention of a person initially  
112 stopped pursuant to the provisions of this subsection when a law enforcement officer has reasonable  
113 ground to suspect that the person is committing, has committed or is about to commit a crime or offense.  
114 Nothing in this subsection shall be deemed to preclude the arrest of a person initially stopped pursuant to  
115 the provisions of this subsection when a law enforcement officer has probable cause to believe that the  
116 person is committing, has committed or is about to commit a crime or offense.”.

117 Section 12. Amend § 703, Title 21 of the Delaware Code by redesignating current subsections (c), (d), (e), (f), (g), and (h)  
118 thereof as subsections (d), (e), (f), (g), (h) and (i) and by inserting a new subsection “(c)” thereto as follows:

119 “(c) An investigating police officer may issue a summons to a person for purposes of enforcing any provision of this  
120 Title designated as a civil infraction upon reasonable and articulable suspicion that a violation of such a provision  
121 of this Title has occurred. The summons issued shall be for an appearance at a subsequent date before a Justice of  
122 the Peace Court which is located in the same County wherein the infraction occurred, unless a Justice of the Peace  
123 Court located in another County is closer to the place where the infraction occurred, in which case the  
124 investigating officer may summon the person to appear at a subsequent date, before said Court.”.

125 Section 13. Amend § 703A, Title 21 of the Delaware Code by designating the current language of that language as  
126 subsection (a) of that Section and by inserting a new subsection “(b)” thereto as follows:

127 “(b) Unless a statute within this Title defining a civil infraction or a Statute directly related thereto expressly provides  
128 otherwise, there shall be no entry on the motor vehicle operating record of a person held liable for an assessment  
129 for a civil infraction. Unless the statute within this Title defining a civil infraction or a statute directly related  
130 thereto expressly provides otherwise, no motor vehicle points shall be assessed against any person held liable for  
131 an assessment for a civil infraction. When reporting of a find of liability for a civil infraction is required, such  
132 reporting shall be deemed acceptable if it is made in either written form or by electronic data transfer. The

original documents related to the finding of responsibility shall be retained by the Court and forwarded to the Division upon request.”.

Section 14. Amend § 709(a), Title 21 of the Delaware Code by deleting the first two sentences of that subsection and by substituting in lieu thereof the following:

“(a) Applicability.

Any duly constituted peace officer in the State who charges any person with any of the offenses hereinafter designated ‘motor vehicle offenses subject to voluntary assessment’ or who issues a summons for a civil infraction set forth in this Title may indicate on the Uniform Traffic Complaint and Summons that the fine or civil assessment shall be paid by voluntary assessment unless the driver requests a hearing. When a voluntary assessment is permitted and the Uniform Traffic Complaint and Summons is properly executed by the officer, the driver may dispose of the charge or civil infraction without the necessity of personally appearing in the Court to which the Uniform Traffic Complaint and Summons is returnable.”.

Section 15. Further Amend § 709, Title 11 of the Delaware Code by striking the language of subsections (e), (f), (g), (h), (i), (j) and (k) of that Section in its entirety and by substituting in lieu thereof the following:

“(e) Offenses or civil infractions designated as ‘motor vehicle offenses or civil infractions subject to voluntary assessment’; exceptions.

All offenses or civil infractions as now or hereafter set forth in this Title and all motor vehicle offenses or civil infractions falling within the scope of § 5211(a) of Title 30 are hereby designated as motor vehicle offenses or civil infractions subject to voluntary assessment except for the following offenses:

- (1) Violation of § 2118 of this Title;
- (2) Violation of § 2118A of this Title;
- (3) Violation of § 2701 of this Title;
- (4) Violation of § 2751 of this Title;
- (5) Violation of § 2752 of this Title;
- (6) Violation of § 2756 of this Title;
- (7) Violation of § 4103 of this Title;
- (8) Violation of § 4175 of this Title;
- (9) Violation of § 4175A of this Title;
- (10) Violation of § 4177 of this Title;

- (11) Violation of § 4177L of this Title;
- (12) Violation of § 4201 of this Title;
- (13) Violation of § 4202 of this Title;
- (14) Any violation of Chapter 67 of this Title; and
- (15) Violations of other Sections of this Title which are deemed not appropriate for processing by voluntary assessment.

(f) Procedure for voluntary assessment.

- (1) At the time of making an arrest or stop for any offense or civil infraction subject to this Section, the arresting or investigating officer shall determine whether the offense or civil infraction may be handled as a voluntary assessment. If the officer determines that the offense or civil infraction may be so treated, the officer may indicate on the Uniform Traffic Complaint and Summons that payment shall be made by voluntary assessment, unless the driver requests a hearing on the charge(s) or infraction(s). The officer shall inform the detained or arrested person of the Court or voluntary assessment center to which payment should be submitted if the person does not request a hearing. No officer shall receive or accept custody of a payment.
- (2) A driver who has been given a Uniform Traffic Complaint and Summons which specifies that payment be made by voluntary assessment shall pay the fine or civil assessment, together with costs and penalty assessments, within 30 days from the date of arrest or stop during which time payment must be received by the applicable Court or voluntary assessment center.
- (3) In lieu of paying the voluntary assessment, a driver who has been given a voluntary assessment may request a hearing by notifying, in writing, the Court or the voluntary assessment center to which payment is to be made within 30 days of the date of arrest or stop. If the driver makes a timely request for a hearing in a matter involving a crime or offense, the charge shall be prosecuted as if the voluntary assessment had not been permitted and the officer shall swear to the ticket prior to trial. If the driver makes a timely request for a hearing in a matter involving a civil infraction, the infraction shall be proceeded upon as if the voluntary assessment had not been permitted and the provisions of Chapter 76 of Title 10 shall apply.

(4) If a voluntary assessment is not issued or the driver declines to accept the voluntary assessment, the officer shall follow the procedure for arrest as set forth in Chapter 19 of Title 11, or in the case of a civil infraction, the officer shall follow the procedures set forth in Chapter 76 of Title 10.

(g) Penalty.

The penalty or assessment for offenses or civil infractions for which a voluntary assessment payment is made shall be the minimum fine or assessment for each specific offense charged and/or civil infraction alleged and fines and assessments shall be cumulative if more than one (1) offense or infraction is charged or alleged. Provisions of this paragraph as to penalties or assessments under voluntary assessment shall not apply if the voluntary assessment payment is not received by the voluntary assessment center or the applicable Court within 30 days from the date of arrest or stop.

(h) Court costs; applicability of Delaware Victim Compensation Law.

In lieu of any other Court costs, and provided the offense or civil infraction is not subject to other proceedings under this Section, each fine or assessment for an offense or civil infraction under this Section shall be subject to Court costs for processing a voluntary assessment agreement as prescribed by § 9801 of Title 10. Each fine for an offense under this Section, except those assessments imposed for civil infractions under this Title, shall be subject also to the penalty assessment which is or may be provided for in the Delaware Victim Compensation Law, Chapter 90 of Title 11, and any other penalty assessments as provided by law.

(i) Effect of payment of fine or signature; repeat offenders.

(1) Payment of the prescribed fine, civil assessment, costs, or penalty assessment is an admission of guilt or an admission of responsibility for a civil infraction, a waiver of the right to a hearing, and a complete satisfaction of the violation or civil infraction, except as provided in paragraph (2) of this subsection.

Anything in this Section notwithstanding, if an agreement for a voluntary assessment is signed by the driver, the signature of the driver shall constitute an acknowledgment of guilt of the stated offense or an admission of responsibility for the stated civil infraction and an agreement to pay the fine or assessment, together with costs and penalty assessment within 30 days from the date of arrest or stop. Payment does not waive any administrative penalty which may be lawfully charged to the violator's driving record by the Department of Safety and Homeland Security.

(2) In the event that, following compliance with the payment provisions of this Section, it is determined that within the two-year period immediately preceding the violation or infraction, the person was convicted



of, found responsible for or made a payment pursuant to this Section in satisfaction of a violation or infraction of the same Section of this Title, personal appearance before the Court to which the summons is returnable or the Court which is associated with the applicable voluntary assessment center may be required.

(j) Failure to pay a voluntary assessment.

(1) The voluntary assessment center shall, pursuant to § 2731 of this Title, forward to the Division of Motor Vehicles or its successor the name and address of any driver who was issued a Uniform Traffic Complaint and Summons for which a voluntary assessment could be made and who has:

- a. Failed to pay the voluntary assessment within 30 days from the date of arrest or stop; and
- b. Not notified the Court or voluntary assessment center within 30 days from the date of arrest or stop, in writing, that he or she is requesting a hearing on the charge or infraction stated in the Uniform Traffic Complaint and Summons. The Division of Motor Vehicles shall then suspend the driver's license for Delaware residents, or may suspend the driving privileges in this State of a nonresident of Delaware and immediately advise the Motor Vehicle Administrator of the state wherein the person is a resident that the person's license to drive be suspended in accordance with § 2732(g) of this Title.

(2) If a driver pays a voluntary assessment more than 30 days after the date of arrest or stop, the voluntary assessment center or Court shall provide the driver with a receipt which shall serve as proof to the Division of Motor Vehicles that the fine or civil assessment has been paid, upon request. The driver shall provide the voluntary assessment center with a self-addressed, stamped envelope in order to receive a copy of the receipt by mail. Such payment shall be an admission of guilt or responsibility for a civil infraction, a waiver of the right to a hearing, and a complete satisfaction of the violation or infraction, except as provided in paragraph (i)(2) of this Section.

(3) (a) If a driver who has been charged with a crime or offense under this Title and who has failed to pay a voluntary assessment or request a hearing within 30 days of the date of arrest appears at Court, the charge shall be prosecuted as if the voluntary assessment had not been permitted and the officer shall swear to the Uniform Traffic Complaint and Summons prior to trial. The minimum fine provisions of subsection (g) shall not apply. If the driver who appears pleads not guilty, the Court shall provide the

driver with a copy of the appearance bond to provide as proof of Court appearance to the Division of Motor Vehicles or its successor.

(b) If a driver who has been alleged to be responsible for a civil infraction under this Title and who has failed to pay a voluntary assessment or request a hearing within 30 days of the date of stop appears at Court, the civil infraction shall be proceeded against as if the voluntary assessment had not been permitted and the provisions of Chapter 76 of Title 10 shall apply. The minimum assessment provisions of subsection (g) of this Section shall not apply. If the driver who appears contests responsibility for the civil infraction, the Court may provide the driver with a copy of an appearance bond to provide as proof of Court appearance to the Division of Motor Vehicles or its successor.

(4) The Court shall forward to the Division of Motor Vehicles or its successor the name and address of any driver who fails to appear for trial or hearing on the date and time required by the Court, or who fails to comply with a deferred payment order, on a motor vehicle charge or civil infraction issued under this Section. The Division of Motor Vehicles shall then suspend the driver's license for Delaware residents, or may suspend the driving privileges in this State of a nonresident of Delaware and immediately advise the Motor Vehicle Administrator of the state wherein the person is a resident that the person's license to drive be suspended in accordance with § 2732(g) of this Title.

(k) Nonexclusive procedure.

The procedure prescribed in this Section is not exclusive of any other method prescribed by law for the arrest and prosecution of persons violating this Title. The procedure prescribed in this Section is not exclusive of any other method prescribed by law for the stop and proceeding against of persons alleged to have committed a civil infraction defined in this Title.”.

Section 16. Amend Title 10 the Delaware Code by adding a new Chapter thereto designated as Chapter 76 which shall read as follows:

#### “CHAPTER 76. CIVIL INFRACTIONS

§ 7601. Applicability.

Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise, the provisions of this Chapter shall apply to the proceedings for any civil infraction as defined in § 236 of Title 11.

§ 7602. Notice of civil infraction; amendment of notice.

- 274 (a) In addition to the notice of a civil infraction provided for by summons issued pursuant to § 1907A of  
275 Title 11 or § 703 of Title 21, a Court with jurisdiction over a civil infraction may issue a notice of civil  
276 infraction upon receipt of a written statement of an investigating law enforcement officer or the Attorney  
277 General that there is reasonable and articulable suspicion to believe that a civil infraction was committed.  
278 Notice of a civil infraction may also be by indictment or information if such civil infraction is property  
279 joined with crimes or offenses.
- 280 (b) A summons for a civil infraction property issued pursuant to § 1907A of Title 11 or § 703 of Title 21 or  
281 a notice of civil infraction issued pursuant to subsection (a) of this Section represents a determination  
282 that an infraction has been committed. That determination will be final unless contested as provided in  
283 this Chapter.
- 284 (c) (1) The Court may permit a summons for or notice of a civil infraction to be amended at any time prior  
285 to judgment if no additional or different infraction is alleged and is substantial rights of the  
286 respondent are not thereby prejudiced.
- 287 (2) A summons for or notice of a civil infraction may be amended to conform to the evidence adduced  
288 at hearing if no additional or different infraction is alleged and if substantial rights of the respondent  
289 are not thereby prejudiced.

290 § 7603. Response to notice; contesting determination; hearing; failure to respond or appear; default judgment.

- 291 (a) Any person who receives a summons for or notice of a civil infraction shall respond to such summons or  
292 notice as provided in this Section within thirty days of the date of the summons or notice or, where  
293 applicable, as provided in § 709 of Title 21.
- 294 (b) If the person determined to have committed the infraction does not contest the determination and  
295 responsibility for the infraction, the person shall respond by completing the appropriate portion of the  
296 summons for or notice of infraction and submitting it, either by mail or in person, to the Court or  
297 voluntary assessment center to which the summons or notice is returnable. The Court or voluntary  
298 assessment center must receive the payment within 30 days of the date of the summons or notice. A  
299 check or money order in the amount of the penalty prescribed for the infraction must be submitted with  
300 the response. When a response which does not contest the determination is received, an appropriate  
301 order shall be entered in the Court's records.

- (c) If the person determined to have committed the infraction wishes to contest the determination and responsibility for the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the Court specified on the notice. The Court shall notify the person in writing of the time, place, and date of the hearing.
- (d) If the person determined to have committed the infraction does not contest the determination or responsibility for the infraction but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the Court specified on the notice. The Court shall notify the person in writing of the time, place, and date of the hearing.
- (e) (1) In hearings conducted pursuant to subsection (c) or (d) of this Section, the Court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order finding responsibility for an infraction, for up to one year and impose conditions upon the respondent the Court deems appropriate. Upon deferring findings, the Court may assess a civil assessment and costs as the Court deems appropriate for administrative processing. If at the end of the deferral period the respondent has met all conditions and has not been determined to have committed another civil infraction, the Court may dismiss the civil infraction.
- (2) This subsection shall not be available to any person who has previously been granted a deferral within five (5) years of the current infraction.
- (f) If any person issued a summons for or notice of a civil infraction:
- (1) Fails to respond to the summons for or notice of a civil infraction as provided in subsection (b) of this Section; or
- (2) Requests a hearing pursuant to subsection (c) or (d) of this Section and fails to appear at such requested hearing; or
- (3) Fails to either pay a voluntary assessment for a civil infraction within the time specified on the summons or notice, or to notify the Court or voluntary assessment center or applicable entity within the required time, that he or she wishes to have a hearing on the infraction; a default judgment may be entered against the respondent. In the case of a default judgment the Court shall enter an appropriate order assessing the civil assessment prescribed for the infraction or any other assessment authorized by this Chapter. The Court may also enter such orders as may be appropriate and

authorized under the provisions §§ 1907 or 1907A of Title 11, the provisions of §§ 702 or 709 of Title 21 or other provisions of this Chapter. Such judgments may be vacated or enforced consistent with § 7607(e) of this Title.

§ 7604. Refusal of registration renewal.

When a person's name and address is forwarded to the Division of Motor Vehicles pursuant to § 709(j) of Title 21 due to a failure to appear or pay arising from a civil infraction and the infraction was one for which the person received service or the summons for or notice of infraction by mail and the person has not responded within the required time by either paying the civil assessment or requesting a hearing or, submitting an affidavit stating that he or she was not the driver, if applicable, the Division of Motor vehicles may deny the renewal of the registered owner's vehicle operated at the time the summons or notice was issued.

§ 7605. Representation of the parties.

- (a) Any respondent may but need not be represented by counsel in any proceedings under this Chapter.
- (b) Notwithstanding any statute or rule of Court to the contrary, the State may, but need not be, represented by counsel at any proceedings under this Chapter. Absent extraordinary circumstances, the State's right to be represented by counsel is waived unless the Attorney General or his or her designee notifies the Court and the defendant of the State's election to be represented by counsel.
- (c) A respondent may appear, answer and have judgment entered through an attorney, who shall either appear in person or shall file, at or before the time of appearance, a written response or answer on behalf of the respondent. The Court may, in its discretion, require the presence of the respondent at any proceeding under this Chapter.

§ 7606. Pre-hearing procedures.

- (a) A subpoena may be issued on behalf of the respondent or the state only for the attendance of a witness or for the production of documentary evidence at a hearing held pursuant to § 7603(c) of this Title. Such a subpoena shall be issued in a manner consistent with the rules of criminal procedure of the Court in which a hearing of a civil infraction is to be heard.
- (b) No pre-hearing discovery shall be permitted absent extraordinary circumstances.
- (c) Immediately prior to any hearing held pursuant to this Chapter, both parties shall produce for inspection any documents, prepared exhibits and any written or recorded statements of any witness which may be offered at the hearing. Failure to comply with this rule may result, in the Court's discretion, in the sanction of granting a recess or continuance to permit inspection or denying admission of the evidence not so produced for inspection.

§ 7607. Hearings.

(a) All proceedings commenced to contest the determination and responsibility for a civil infraction shall be heard by the Court without a jury.

(b) In proceedings to contest the determination and responsibility for a civil infraction:

(1) In lieu of the personal appearance by the law enforcement officer who issued the summons for or notice of the civil infraction, the Court may consider the summons for or notice of the civil infraction and any other written report made by the officer together with any oral or written statement by the respondent or the statement of any other witness presented.

(2) The Court may compel by subpoena the attendance of the officer who issued the summons or notice and other witnesses requested by the parties or from whom it may wish to hear.

(3) Any statement or testimony considered by the Court in a hearing of a civil infraction commenced pursuant to this Chapter shall be under oath or affirmation.

(4) The Delaware Rules of Evidence shall not apply in a hearing a civil infraction commenced pursuant to this Chapter. Any evidence offered may be admitted subject to a determination by the Court that the offered evidence is relevant and material and has some probative value to a fact at issue. Nothing in this paragraph is to be construed as abrogating the provisions of any rule of evidence or any statute relating to privileged communications.

(5) The burden of proof is upon the State to establish that the respondent is responsible for the civil infraction by a preponderance of the evidence.

(6) a. If all elements of a civil infraction are proven by a preponderance of the evidence, the Court shall find the respondent responsible and enter the appropriate judgment.

b. If any element of a civil infraction is not proven by a preponderance of the evidence, the Court shall dismiss the infraction and enter an appropriate judgment, provided, however, that the Court may find the respondent responsible for a lesser included civil infraction, if based on the evidence offered, and enter an appropriate judgment.

(7) If the Court finds the respondent responsible for the civil infraction, the Court shall inform the respondent of his or her right to appeal provided under this Chapter.

(c) In proceedings to explain mitigating circumstances:

- 388 (1) The procedure shall be informal and shall be limited to the issue of mitigating circumstances. A person  
389 who requests to explain mitigating circumstances shall not be permitted to contest the determination or  
390 responsibility for the civil infraction.
- 391 (2) After the Court has received the explanation, the Court shall enter a judgment finding the respondent  
392 responsible for the civil infraction and assessing such civil assessment as it deems appropriate under the  
393 law.
- 394 (3) The Court after receiving the explanation may vacate the admission of responsibility and dismiss the  
395 civil infraction with prejudice only where the explanation of mitigating circumstances establishes that the  
396 civil infraction was not committed.
- 397 (4) There shall be no appeal from an order entered under this the subsection.

398 § 7608. Payment of assessments, penalties and costs.

- 399 (a) Upon being found responsible for a civil infraction, all the costs shall be paid by the respondent found  
400 responsible.
- 401 (b) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise,  
402 the videophone assessment provided for in § 4101(d) of Title 11 shall not be assessed for a civil infraction.
- 403 (c) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise,  
404 the victim's compensation penalty assessment provided for in § 9012 of Title 11 shall not be assessed for  
405 civil infractions.
- 406 (d) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise,  
407 Court costs for civil infractions shall be \$35, unless paid by voluntary assessment, in which case the Court  
408 costs shall be \$15.
- 409 (e) Immediately upon imposition by a Court of a civil assessment or costs or both, including a default judgment,  
410 the same shall be a judgment against the person found responsible for the full amount of the assessment or  
411 costs or both. If not paid promptly upon its imposition or in accordance with the terms of the order of the  
412 Court, the clerk shall, upon motion of either party or the Court sua sponte, cause the judgment to be  
413 transferred to the civil judgment docket whence it may be executed and enforced or transferred in the same  
414 manner as other judgments of the Court; provided, however, that where a stay of execution is otherwise  
415 permitted by law such a stay shall not be granted as a matter of right but only within the discretion of the  
416 Court.

- 417 (f) Any governmental entity to which assessments, penalties or costs for a civil infraction are payable pursuant  
418 to subsection (j) of this Section or any other provision of law may pursue execution on such judgment.
- 419 (g) Upon any reversal of a finding of responsibility, the State Treasurer shall remit to each person, or to the  
420 attorney of such person, any civil assessment or costs or both which was later set aside by a Court of higher  
421 jurisdiction upon a certiorari or appeal from the lower Court, in the same manner as provided in § 4103 of  
422 Title 11 for fines.
- 423 (h) When a Court imposes a civil assessment, costs or both, the Court may direct that the respondent pay the  
424 entire amount at the time of imposition or may direct that the respondent pay a specified portion of the civil  
425 assessment, or costs, or both at designated periodic intervals.
- 426 (i) For purposes of ensuring the payment of civil assessments and cost and the enforcement of any orders  
427 imposed, the Court shall retain jurisdiction over the person found responsible for a civil infraction until any  
428 civil assessment or costs imposed are paid in full. The Court may discharge the civil assessment and costs of  
429 any person found responsible when the Court receives evidence that such person is deceased.
- 430 (j) The provisions of § 706 of Title 21 shall be applicable to the disposition of amounts collected for civil  
431 assessments and costs related to civil infractions set forth in Title 21.

432 § 7609. Appeal.

- 433 (a) Any persons found responsible after a hearing held pursuant to § 7603(c) of this Title for a civil infraction as  
434 defined in § 236 of Title 11, or under any municipal ordinance or other law, within the State before an  
435 alderman or mayor of any incorporated city or town, shall have the right of an appeal, unless otherwise stated  
436 in this Chapter, to the Court of Common Pleas, upon giving bond in the sum of \$500 to the State with surety  
437 satisfactory to the mayor or judge before whom such person was found responsible for the civil infraction,  
438 such appeal to be taken and bond given within 15 days from time of the finding of responsibility. Such  
439 appeal shall operate as a stay or supercedes of all proceedings in the Court below in the same manner that a  
440 certiorari from the Superior Court operates. The taking of such appeal shall constitute a waiver by the  
441 appellant of the appellant's right to a writ of certiorari in the Superior Court. Such appeal to the Court of  
442 Common Pleas shall be heard de novo.
- 443 (b) Except as provided in subsection (a) of this Section, any person found responsible after a hearing in the  
444 Justice of the Peace Court held pursuant to § 7603(c) of this Title for a civil infraction as defined in § 236 of  
445 Title 11 shall have the right of an appeal to the Court of Common Pleas only in those cases in which the civil



assessment for the infraction exceeded \$100, upon giving bond with surety satisfactory to the alderman, justice of the peace or a judge before whom such person was found responsible for the civil infraction, such appeal to be taken and bond given with 15 days from the time of the finding of responsibility. Such appeal shall operate as a stay or supercedes of all proceedings in the Court below in the same manner that a certiorari from the Superior Court operates. The taking of such appeal shall constitute a waiver by the appellant of the appellant's right to writ of certiorari in the Superior Court. Such appeal to the Court of Common Pleas shall be heard de novo.

(c) Any person found responsible after a hearing in the Court of Common Pleas held pursuant to § 7603(c) of this Title for a civil infraction as defined in § 236 of Title 11 shall have the right of an appeal to the Superior Court in those cases in which the civil assessment for the infraction exceeded \$100, upon giving bond with surety satisfactory to the Court of Common Pleas, such appeal to be taken and bond given with 15 days from the time of the finding of responsibility. Such appeal to the Superior Court shall be heard on the record of the proceedings below and shall not be heard de novo.

(d) In any case where responsibility for multiple civil infractions is found or where multiple civil assessments are imposed for separate findings of responsibility, each civil assessment for each infraction, which shall exclude any statutory surcharges or other costs, must be considered separately and a person found responsible may not aggregate civil assessment from such separate infractions for purposes of meeting the jurisdictional requirements of this Section.

#### § 7610. Jurisdiction over certain children.

The Justice of the Peace Court, or where appropriate, the Court of Common Pleas shall have jurisdiction over children age 16 or 17 years of age or older charged with a civil infraction set forth in Title 21 except when said child is also charged in the same incident with having violated one (1) or more offenses specified in § 927 of Title 10, in which event the entire case shall be heard in the Family Court. When the Justice of the Peace Court or the Court of Common Pleas has jurisdiction over a child charged with a civil infraction set forth in Title 21, the provisions of this Chapter shall apply. The provisions of § 921(10) of Title 10, Justice of the Peace Court Civil Rule 55 or any other statute or rule notwithstanding, such child may pay a civil penalty by voluntary assessment and a default judgment may be entered against such child in any instance in which it would be entered against an adult.

#### § 7611. Consolidation with crimes or offenses.

Notwithstanding any other provision of the law to the contrary, any civil infraction which is within the exclusive or original jurisdiction of a Court that is based on the same act or transaction or based on two or more acts or transactions connected together as other civil infractions, crimes or offenses within the original jurisdiction or some other Court of this State may be properly joined and shall also be deemed to be within the jurisdiction of the latter Court. The proceedings in any case in which a civil infraction and crimes or offenses have been properly joined shall be governed by the rules of criminal procedure applicable to the crimes or offenses so joined.

§ 7612. Court or administrative rules.

The Justice of the Peace Court and the Court of Common Pleas, upon approval by the Chief Justice, may, from time to time, adopt and promulgate general rules which prescribe and regulate the form and manner of process, pleading, practice and procedure governing civil infraction proceedings in those Courts from their inception to their termination provided such rules are not contrary to this Chapter.”.

Section 17. Amend § 315, Title 21 of the Delaware Code by striking the phrase “be fined, for the first offense, not less than \$10 nor more than \$50. For each subsequent like offense, such person shall be fined not less than \$50 nor more than \$100” and by substituting in lieu thereof the phrase “, for the first infraction, be assessed not less than \$10 not more than \$50. For each subsequent like infraction, such person shall be assessed not less than \$50 nor more than \$100. Violations of this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 18. Amend § 318, Title 21 of the Delaware Code by striking the phrase “be fined not more than \$200 or imprisoned not more than 6 months in the discretion of the Court” and by substituting in lieu thereof the phrase “be assessed not more than \$200. Violations of this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 19. Amend § 2116, Title 21 of the Delaware Code by striking the language of subsections (a), (b) and (c) of that Section in its entirety and by substituting in lieu thereof the following:

“(a) Whoever violates this Chapter shall, for the first infraction, be assessed not less than \$10 nor more than \$100.

For each subsequent like infraction, the person shall be assessed not less than \$50 nor more \$200, in addition to which any person, being the operator or owner of any vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle and any load thereon shall be assessed at a rate double that which is set forth in this subsection. In addition, such person shall also be assessed in an amount which is equal to the cost of registering the vehicle at its gross weight at the time of the offense or at the maximum legal limit, whichever is less; which assessment shall be suspended, if within five (5) days of the infraction the Court is presented with a valid registration card for the gross weight at the time of the infraction for the

maximum legal limit for such vehicle. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

- (b) (1) Notwithstanding the provisions of subsection (a) of this Section, whoever violates § 2115(1)-(5) of this Title shall, for the first infraction, be assessed not less than \$50 nor more than \$200. For each subsequent like infraction, such person shall be assessed not less than \$100 nor more than \$300.
- (2) Any owner or operator of a vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle, and any load thereon, and who violates § 2115(1)-(5) of this Title, shall be assessed at a rate double that which is set forth in this subsection. In addition, such person shall also be assessed an amount which is equal to the costs of registering the vehicle either at its gross weight at the time of the infraction, or at the maximum legal limit, whichever is less. Such assessment shall be suspended if, within five (5) days of the offense, the Court is presented with a valid registration card for the actual gross weight of the vehicle at the time of the infraction.
- (3) Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.
- (c) Notwithstanding the provisions of subsections (a) or (b) of this Section, this Section shall not apply to violations for which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and punished as set forth in the statute defining the violation or any statute directly related thereto.”.

Section 20. Amend § 2133(a)(3), Title 21 of the Delaware Code by striking the phrase “for the first offense be fined not less than \$25 nor more than \$100. For each subsequent like offense, the person shall be fined not less than \$50 nor more than \$200, or imprisoned not less than 10 nor more than 30 days, or both” from that paragraph and by substituting in lieu thereof the phrase “, for the first infraction, be assessed not less than \$25 nor more than \$100. For each subsequent like infraction, the person shall be assessed not less than \$50 nor more than \$200. Violations of this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 21. Amend § 2133(b), Title 21 of the Delaware Code by striking the word “offenses” from that subsection by substituting in lieu thereof the word “infractions”.

Section 22. Amend § 2174, Title 21 of the Delaware Code by striking the phrase “for the first offense be fined not less than \$25 nor more than \$100. For each subsequent like offense, such person shall be fined not less than \$100 nor more than \$200, or imprisoned not less than 10 nor more than 30 days, or both” from that Section and by substituting in lieu thereof the phrase “, for

532 the first infraction, be assessed not less than \$25 nor more than \$100. For each subsequent like infraction, the person shall be  
533 assessed not less than \$100 nor more than \$200. Violations subject to assessment under this Section shall be deemed to be civil  
534 infractions as defined in § 236 of Title 11.”.

535 Section 23. Amend § 2315, Title 21 of the Delaware Code by striking the phrase “fined not less than \$100 nor more than  
536 \$1000, or imprisoned not less than 10 days nor more than 1 year, or both” from that Section and by substituting in lieu thereof the  
537 phrase “assessed not less than \$100 nor more than \$1000. Violations subject to assessment under this Section shall be deemed to be  
538 civil infractions as defined in § 236 of Title 11”.

539 Section 24. Amend § 2351, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that  
540 Section in its entirety and by substituting in lieu thereof the following:

541 “(a) Whoever violates this Chapter shall be assessed not less than \$25 nor more than \$500. Violations subject to  
542 assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

543 (b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for  
544 which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and  
545 punished as set forth in the statute defining the violation or any statute directly related thereto.”.

546 Section 25. Amend § 2510(a), Title 21 of the Delaware Code by striking the phrase “fined not less than \$25 nor more than  
547 \$500, or imprisoned not less than 30 days nor more than 1 year, or both” from that subsection and by substituting in lieu thereof the  
548 phrase “assessed not less than \$25 nor more than \$500. Violations subject to assessment under this subsection shall be deemed to  
549 be civil infractions as defined in § 236 of Title 11.”.

550 Section 26. Amend § 2511, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that  
551 Section in its entirety and by substituting in lieu thereof the following:

552 “(a) Whoever violates this Chapter shall for the first infraction be assessed not less than \$25 nor more than \$100.  
553 For each subsequent like infraction, the person shall be assessed not less than \$100 nor more than \$200.  
554 Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in  
555 § 236 of Title 11.

556 (b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for  
557 which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and  
558 punished as set forth in the statute defining the violation or any statute directly related thereto.”.

559 Section 27. Amend § 2623, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that  
560 Section in its entirety and by substituting in lieu thereof the following:

561           "(a) Whoever violates this Chapter shall for the first infraction be assessed not less than \$50 nor more than \$100.

562           For each subsequent like infraction, the person shall be assessed not less than \$100 nor more than \$200.

563           Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in  
564           § 236 of Title 11.

565           (b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for  
566           which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and  
567           punished as set forth in the statute defining the violation or any statute directly related thereto."

568           Section 28. Amend § 2701(f), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and  
569           by substituting in lieu thereof the following:

570           "(f) Whoever violates subsection (c) or (d) of this Section shall for the first infraction be assessed not less than  
571           \$25 nor more than \$100. For each subsequent like infraction, the person shall be assessed not less than \$50  
572           nor more than \$100. Violations subject to assessment under this subsection shall be deemed to be civil  
573           infractions as defined in § 236 of Title 11."

574           Section 29. Amend § 2704(b), Title 21 of the Delaware Code by striking the phrase "for the first offense be fined not less  
575           than \$25 nor more than \$100. For each subsequent like offense, the violator shall be fined not less than \$50 nor more than \$200, or  
576           imprisoned not less than 10 nor more than 30 days, or both" from the subsection and by substituting in lieu thereof the phrase ", for  
577           the first infraction, be assessed not less than \$25 nor more than \$100. For each subsequent like infraction, the person shall be  
578           assessed not less than \$50 nor more than \$200. Violations subject to assessment under this subsections shall be deemed to be civil  
579           infractions as defined in § 236 of Title 11."

580           Section 30. Amend § 2757, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that  
581           Section in its entirety and by substituting in lieu thereof the following:

582           "(a) Whoever violates this Chapter shall for the first infraction be assessed not less than \$25 nor more than \$115.

583           For each subsequent like infraction, such person shall be assessed not less than \$50 nor more than \$230.

584           Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in  
585           § 236 of Title 11.

586           (b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for  
587           which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and  
588           punished as set forth in the statute defining the violation or any statute directly related thereto."

589           Section 31. Amend § 2802(1)(a), Title 21 of the Delaware Code by striking the phrase "(a), (b) and (c)" as it appears in  
590 that subsection and by substituting in lieu thereof the phrase "(a) or (b)".

591           Section 32. Amend § 3108, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that  
592 Section in its entirety and by substituting in lieu thereof the following:

593                   "(a) Whoever violates this Chapter shall for the first infraction be assessed not less than \$25 nor more than \$115.

594                   For each subsequent like infraction, such person shall be assessed not less than \$50 nor more than \$230.

595                   Violations subjects to assessment under this subsection shall be deemed to be civil infractions as defined in  
596 § 236 of Title 11.

597                   (b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations  
598 defined as perjury under § 3107 of this Title.

599                   (c) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for  
600 which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and  
601 punished as set forth in the statute defining the violation or any statute directly related thereto."

602           Section 33. Amend § 4102, Title 21 of the Delaware Code by deleting the phrase "with respect to particular offenses," and  
603 by substituting in lieu thereof the phrase "with respect to particular offenses or civil infractions,".

604           Section 34. Amend § 4105(f)(1), Title 21 of the Delaware Code by deleting the phrase "fined not less than double the  
605 enumerated amount for a 1<sup>st</sup> offense" and by substituting in lieu thereof the phrase "fined or assessed not less than double the  
606 enumerated amount for a 1<sup>st</sup> offense or infraction."

607           Section 35. Amend § 4108(d), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and  
608 by substituting in lieu thereof the following:

609                   "(d) Whoever violates this Section shall be assessed not less than \$75 nor more than \$115. Whoever violates  
610 paragraph (a)(3) of this Section shall be assessed not less than \$75 nor more than \$230. For each subsequent  
611 infraction under paragraph (a)(3) within 2 years, the person shall be assessed not less than \$100 nor more  
612 than \$575. Violations subject to assessment under this subsection shall be deemed to be civil infractions as  
613 defined in § 236 of Title 11."

614           Section 36. Amend § 4123(b), Title 21 of the Delaware Code by striking the language of the second and third sentences of  
615 that subsection in its entirety and by substituting in lieu thereof the following:

616                   "Whoever violates this subsections shall, for the first infraction, be assessed not less than \$28.75 nor more than  
617 \$230. For each subsequent like infraction within 2 years, the person shall be assessed not less than \$57.50 nor

more than \$575. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 37. Amend § 4126(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(b) Whoever violates subsection (a) of this Section shall for the first infraction be assessed not less than \$25 nor more than \$115. For each subsequent like infraction, the person shall be assessed not less than \$50 nor more than \$200. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 38. Amend § 4146(f), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(f) Whoever violates this Section shall for the first infraction be assessed not less than \$10 nor more than \$28.75. For each subsequent like infraction, the person shall be assessed not less than \$25 nor more than \$50. Violations subject to assessment under this subsections shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 39. Amend § 4148(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(b) Whoever violates subsection (a) of this Sections shall for the first infraction be assessed not less than \$2.30 nor more than \$28.25. For each subsequent like infraction within 1 year, the person shall be assessed not less than \$11.50 nor more than \$28.25. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 40. Amend § 4166, Title 21 of the Delaware Code by striking the language of subsections (i) and (j) of that Section in its entirety and by substituting in lieu thereof the following:

"(i) Assessments. Whoever violates subsection (d) of this Section shall, for the first infraction, be assessed not less than \$115 nor more than \$230. For each subsequent like infraction occurring within 3 years from the former infraction, such person shall be assessed not less than \$115 nor more than \$575. The minimum assessment levied for a violation of subsection (d) of this Section shall not be subject to suspension. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

- 646 (j) Suspension of license. Upon receiving a finding of responsibility or conviction for a violation of subsection  
647 (d) of this Section, the Department shall suspend the driver's license and/or driving privileges for a period of  
648 not less than 1 month, nor more than 1 year. If the driver's license is suspended, a conditional license is  
649 suspended, a conditional license may be issued pursuant to regulations adopted by the Department."

650 Section 41. Amend § 4169(c), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and  
651 by substituting in lieu thereof the following:

652 "(c) Assessments for violation of this Section are as follows:

- 653 (1) Whoever violates this Section shall for the first infraction be assessed \$20. For each subsequent  
654 infraction, the person shall be assessed \$25. A subsequent infraction, before being subject to  
655 assessment as such, shall have been committed within 24 months after the commission of the prior  
656 infraction.
- 657 (2) Any person violating this Section who exceeds the maximum speed limit by more than 5 miles per  
658 hour but less than 16 miles per hour shall pay an additional assessment of \$1 per mile, if such  
659 violation is a first infraction, or \$2 per mile, if such violation is a subsequent infraction, for each  
660 mile in excess of the maximum speed limit.
- 661 (3) Any person violating this Section who exceeds the maximum speed limit by more than 15 miles per  
662 hour but less than 20 miles per hour shall pay an additional assessment of \$2 per mile, if such  
663 violation is a first infraction, or \$3 per mile, if such violation is a subsequent infraction, for each  
664 mile in excess of the maximum speed limit.
- 665 (4) Any person violating this Section who exceeds the maximum speed limit by more than 19 miles per  
666 hour shall pay an additional assessment of \$3 per mile, if such violation is a first infraction, or \$4  
667 per mile, if such violation is a second infraction, for each mile in excess of the maximum speed  
668 limit.
- 669 (5) Violations subject to assessment under this subsection shall be deemed to be civil infractions as  
670 defined in § 236 of Title 11."

671 Section 42. Amend § 4172(d), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and  
672 by substituting in lieu thereof the following:



"(d) Whoever violates this Section shall be assessed for the first infraction not less than \$25 nor more than \$200.

For each subsequent like infraction, the person shall be assessed not less than \$50 nor more than \$400.

Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

(e) Upon receiving notice of a finding of responsibility for a first infraction under this Section, the Secretary shall forthwith suspend the driver's license or driving privileges of the person found responsible, for a period of not longer than 6 months. Upon receiving notice of a finding of responsibility for a subsequent like infraction, the Secretary shall suspend the driver's license or driving privileges for a 1-year period. Notwithstanding the foregoing, there shall not be a suspension of driver's license or driving privileges upon a finding of responsibility for a first infraction under subsection (b) of this Section."

Section 43. Amend § 4172A, Title 21 of the Delaware Code by striking the language of subsections (c) and (d) of that Section in its entirety and by substituting in lieu thereof the following:

"(c) Whoever being an operator who violates this Section shall be assessed for the first infraction not less than \$25 nor more than \$200. Upon receiving the notice of such a finding of responsibility, the Secretary shall forthwith suspend the driver's license of the person found responsible, for a period of not longer than 6 months. For each subsequent like infraction, the person shall be assessed not less than \$50 nor more than \$400. Upon receiving a Court record of a finding of responsibility for a subsequent like infraction, the Secretary shall suspend the driver's license for a 1-year period. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

(d) Whoever being the owner or person in charge of a motor vehicle who permitted such motor vehicle to be operated in violation of this Section shall be assessed for the first infraction not less than \$28.75 nor more than \$230. For each subsequent like infraction the person shall be assessed not less than \$57.50 nor more than \$460. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 44. Amend § 4175A(e), Title 21 of the Delaware Code by striking the language of the second sentence of that subsection in its entirety and by substituting in lieu thereof the following:

"A person may be prosecuted and convicted of or proceeded against and found responsible for both the offense of aggressive driving and one or more underlying offenses or infractions as defined elsewhere by the laws of the State."

702           Section 45. Amend § 4176, Title 21 of the Delaware Code by striking the language of subsection (c) of that Section in its  
703 entirety and by substituting in lieu thereof the following:

704           "(c) Whoever violates this Section shall for the first infraction be assessed not less than \$25 nor more than \$115.  
705           For each subsequent like infraction occurring within 3 years of a former infraction, the person shall be  
706 assessed not less than \$50 nor more than \$230. Violations subject to assessment under this subsection shall  
707 be deemed to be civil infractions as defined in § 236 of Title 11."

708           Section 46. Amend § 4176B, Title 21 of the Delaware Code by striking the language of subsections (c) and (d) of that  
709 Section in its entirety and by substituting in lieu thereof the following:

710           "(c) Whoever violates this Section shall for the first infraction be assessed not less than \$50 nor more than \$100.  
711           For each subsequent infraction the person shall be assessed not less than \$100 nor more than \$200 and shall  
712 have that person's school bus endorsement removed from that person's driver's license for a period of at least  
713 6 months. Violations subject to assessment under this subsections hall be deemed to be civil infractions as  
714 defined in § 236 of Title 11.

715           (d) It is an affirmative defense in any proceeding under this Section that the driver's use of a cell telephone was  
716 necessitated by a bona fide emergency."

717           Section 47. Amend Chapter 41, Title 21 of the Delaware Code by redesignating current § 4176B as § 4176C and by  
718 adding a new Section thereto designated as § 4176B, which shall read as follows:

719           "§ 4176B. Operation of a vehicle causing injury to another; unclassified misdemeanor.

720           (a) A person is guilty of operation of a vehicle causing injury to another when, in the course of driving or  
721 operating a motor vehicle or OHV in violation of any provision of this Chapter other than § 4177 of this  
722 Title, the person's driving or operation of the vehicle or OHV causes physical injury or serious physical  
723 injury to another person.

724           (b) Operation of a vehicle causing injury to another is an unclassified misdemeanor.

725           (c) Notwithstanding any provision of law to the contrary, a person convicted of operation of a vehicle causing  
726 injury to another shall:

727           (1) If physical injury was caused to the other person:

728           a. For the first offense be fined not more than \$230 or imprisoned not more than 10 days, or  
729 both;

b. For each subsequent conviction under any provision of this Section be fined not more than \$575 or imprisoned not more than 30 days, or both.

(2) If serious physical injury was caused to the other person:

a. For the 1<sup>st</sup> offense be fined not more than \$575 or imprisoned not more than 60 days, or both;

b. For each subsequent conviction under any provision of this Section be fined not more than \$1150 or imprisoned not more than 90 days, or both.

(d) The Court of Common Pleas has original jurisdiction over a violation of this Section by a person 18 years of age or older. Notwithstanding any provision of law to the contrary, an offense or infraction which is within the original or exclusive jurisdiction of another Court and which may be joined properly with a violation of this Section is deemed to be within the original jurisdiction of the Court of Common Pleas."

Section 48. Amend § 4177J, Title 21 of the Delaware Code by striking the language of subsection (b) of that Section in its entirety and by substituting in lieu thereof the following:

"(b) Whoever violates this Section shall be assessed for the first infraction not less than \$25 nor more than \$200. For each subsequent like infraction occurring within 1 year of the previous infraction, the person shall be assessed not less than \$50 nor more than \$400. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 49. Amend § 4180(f), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(f) Whoever violates this Section shall be assessed not less than \$10 nor more than \$25. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 50. Amend § 4188(c), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(c) Whoever violates this Section shall be assessed not less than \$28.75 nor more than \$115. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 51. Amend § 4189, Title 21 of the Delaware Code by striking the language of subsections (g) and (h) of that Section in its entirety and by substituting in lieu thereof the following:

"(g) Whoever violates this Section shall be assessed not less than \$115 nor more than \$287.50. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

(h) The rebuttable presumption set forth in subsection (f) of this Section shall not apply to operators of buses carrying nine (9) or more persons. Whoever violates subsection (e) of this Section shall be assessed not less than \$460 nor more than \$690. For each subsequent infraction occurring within three (3) years of a former infraction, the person shall be assessed not less than \$575 nor more than \$1,150. The minimum assessments for a violation of this Section shall not be subject to suspension. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 52. Amend § 4191A(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(b) Assessments:

(1) A person who violates subsection (a) of this Section shall be subject to the following assessments:

- a. An assessment of not more than \$100 for a first infraction.
- b. An assessment of not more than \$1,000 plus suspension of operating privileges for a period of six (6) months for a second or subsequent infraction under this Section. If a person is under 16 years of age at the time of the second or subsequent infraction under this Section, the period of suspension shall commence upon the person's 16<sup>th</sup> birthday. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 53. Amend § 4198J(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(b) Whoever is found responsible for an infraction in violation of subsection (a) of this Sections shall, for the first infraction be assessed not less than \$150 nor more then \$750 and for subsequent infractions, be assessed not less than \$400 nor more than \$1,150. A subsequent infraction must have been committed within 2 years of the prior infraction. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 54. Amend § 4198K(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(b) Any guardian who fails to cause that guardian's child to wear a bicycle helmet, as provided herein, shall be assessed for the 1<sup>st</sup> infraction \$25, and for each subsequent infraction, \$50. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

787 Section 55. Amend § 4198N(a)(3), Title 21 of the Delaware Code by striking the language of that paragraph in its entirety  
788 and by substituting in lieu thereof the following:

789 "(3) A person who violates this subsection shall be subject to the following assessments:

- 790 a. For the first infraction, an assessment of not less than \$25 nor more than \$115.
- 791 b. For a second or subsequent infraction, committed within 24 months after commission of the
- 792 first infraction, the operator shall be assessed not less than \$57.50 nor more than \$230 and the
- 793 motorized skateboard or scooter may be ordered to be forfeited by the Court. Violations subject
- 794 to assessment under this subsections shall be deemed to be civil infractions as defined in § 236
- 795 of Title 11."

796 Section 56. Amend § 4198N(b), Title 21 of the Delaware Code by striking the language of the final four sentences of that  
797 subsection in its entirety and by substituting in lieu thereof the following:

798 "A person who violates this subsection shall be subject to the following assessments:

- 799 (1) For the first infraction, an assessment of not less than \$25 nor more than \$115.
- 800 (2) For a second or subsequent infraction, committed within 24 months after commission of the first
- 801 infraction, the operator shall be assessed not less than \$57.50 nor more than \$230 and the motorized
- 802 skateboard or scooter may be ordered to be forfeited by the Court.
- 803 (3) In addition, restitution shall be made for value of any damage to real or personal property that results
- 804 from a violation of this subsection.

805 Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined

806 in § 236 of Title 11."

807 Section 57. Amend § 4198N(b)(2), Title 221 of the Delaware Code by striking the language of that paragraph in its  
808 entirety and by substituting in lieu thereof the following:

809 "(2) Any parent or legal guardian who fails to cause that parent or legal guardian's child to wear a helmet, as

810 provided in this subsection, shall be assessed for the 1<sup>st</sup> infraction \$25, and for each subsequent infraction,

811 \$50. Violations subject to assessment under this subsections shall be deemed to be civil infractions as defined

812 in § 236 of Title 11."

813 Section 58. Amend § 4198K(k), Title 21 of the Delaware Code by striking the language of that subsection in its entirety  
814 and by substituting in lieu thereof the following:

"(k) Assessments or penalties when not otherwise specified in this Section. Any person found responsible for an infraction defined in any provision of this Section shall be assessed not less than \$25 nor more than \$300. The assessments or penalties set forth in this subsection shall apply unless a specific assessment or penalty for an infraction or offense specified in a provision of this Section is otherwise provided in this Section. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 59. Amend § 4198O(e), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

- "(e)(1) Any person found responsible for an infraction in violation of paragraphs (a)(1)-(a)(6) or subsection (c) of this Section shall receive a warning for the first infraction, be assessed \$10 for the second or subsequent infraction, and shall have the EPAMD impounded for up to 30 days for the third or subsequent infraction.
- (2) Any person found responsible for an infraction in violation of paragraph (a)(7) of this Section shall for the first infraction be assessed not less than \$150 nor more than \$750 and for subsequent infractions be assessed not less than \$400 nor more than \$1,150.
- (e) Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 60. Amend § 4205, Title 21 of the Delaware Code by striking the language of that Section in its entirety and by substituting in lieu thereof the following:

- "(a) Whoever violates this Chapter or Chapter 41 of this Title shall for the first infraction be assessed not less than \$25 nor more than \$115. For each subsequent like infraction, the person shall be assessed not less than \$57.50 nor more than \$230. All second infractions, before being subject to assessment as such, shall have been committed within 12 months after the commission of the first infraction unless otherwise specifically provided. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.
- (b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for which a specific punishment or assessment is set forth elsewhere in this Chapter or Chapter 41 of this Title. Such violations shall be classified and punished as set forth in the statute defining the violation or any statute directly related thereto.

(c) The provisions of § 236(c) of Title 11 or any other statute, rule or regulation to the contrary notwithstanding, all crimes, offenses, violations or civil infractions subject to punishment or assessment under this Chapter or Chapter 41 of this Title, shall be reported to the Division of Motor Vehicles pursuant to § 703A of this Title and/or the State Bureau of Identification pursuant to Chapter 85 of Title 11, unless the statute defining the crime, offense, violation or civil infraction or a statute directly related thereto expressly provides otherwise. Crimes, offenses, violations or civil infractions reported to the Division of Motor Vehicles or the State Bureau of Identification pursuant to this subsection shall be entered on the driver's motor vehicle record and/or criminal history and/or may be subject to motor vehicle points under the rules and regulations adopted or promulgated by the Secretary of Transportation and/or the Secretary of Safety and Homeland Security in keeping with their respective responsibilities under this Code."

Section 61. Amend § 4313A(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(b) Whoever violates subsection (a) of this Section shall be assessed not less than \$100 nor more than \$500. If any fee was charged for such installation, the violator shall pay restitution to the owner of the vehicle in the amount of the fee charged for installing the illegal window tinting. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 62. Amend § 4315, Title 21 of the Delaware Code by striking the language of that Section in its entirety and by substituting in lieu thereof the following:

"(a) Whoever violates § § 4301-4305 of this Title shall for the first infraction be assessed not less than \$25 nor more than \$115. For each subsequent like infraction, the person shall be assessed not less than \$57.50 nor more than \$230.

(b) Whoever violates § § 4306-4311 of this Title, except for § 4306(c) of this Title, shall for the first infraction be assessed not less than \$10 nor more than \$28.75. For each subsequent like infraction, the person shall be assessed not less than \$28.75 nor more than \$100. Whoever violates § 4306(c) of this Title shall be subject to an assessment of at least \$50 and not to exceed \$250. For each subsequent infraction such person shall be subject to an assessment of at least \$125 and not to exceed \$500.

(c) Whoever being the operator, owner or custodian of any motor vehicle which is operated in violation of § § 4312-4316 of this Title shall be assessed not less than \$28.75 nor more than \$100.

(d) In case of any violation of § § 4301-4316 of this Title by any common carrier or person operating under a permit or certificate issued by any public authority, in addition to the assessments prescribed in this Section, such permit or certificate shall be revoked or, in the discretion of the issuing authority suspended until such Sections are satisfactorily complied with.

(e) Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 63. Amend § 4317(f), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(f) Whoever violates this Section shall for the first infraction be assessed not less than \$10 nor more than \$28.75. For each subsequent like infraction, the person shall be assessed not less than \$28.75 nor more than \$100. Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 64. Amend § 4318(d), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(d) Any person found responsible for the infraction of operating a motor vehicle in violation of this Section shall, for the first infraction, be assessed not less than \$50 nor more than \$115. For each subsequent like infraction within one year, such person shall be assessed not less than \$100 nor more than \$230. Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11. Measurements made with an over-the-counter measuring device shall be prima facie evidence of a violation."

Section 65. Amend § 4358, Title 21 of the Delaware Code by striking the language of that Section in its entirety and by substituting in lieu thereof the following:

"Whoever violates this subchapter shall for the first infraction be assessed not less than \$10 nor more than \$28.75. For each subsequent like infraction, the person shall be assessed not less than \$28.75 nor more than \$100. Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 66. Amend § 4361, Title 21 of the Delaware Code by striking the language of the final sentence in its entirety and by substituting in lieu thereof the following:

"Any person violating this Section shall be assessed not less than \$10 nor more than \$100. Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11."



900 Section 67. Amend § 4372 (b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by  
901 substituting in lieu thereof the following:

902 “(b) Whoever violates subsection (a) of this Section shall for the first infraction be assessed not less than \$10 nor  
903 more than \$28.75. For each subsequent like infraction, the person shall be assessed not less than \$28.75 nor  
904 more than \$100. Violations subject to assessment under this subsection shall be deemed to be civil  
905 infractions as defined in § 236 of Title 11.”.

906 Section 68. Amend § 4372, Title 21 of the Delaware Code by striking the phrase “fined not more than \$115, or imprisoned  
907 not more than 30 days or both” from that Section and by substituting in lieu thereof the phrase “assessed not more than \$115.  
908 Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

909 Section 69. Amend § 4373 (b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety  
910 and by substituting in lieu thereof the following:

911 “(b) Whoever violates any provision of this Section shall be assessed not more than \$57.50. Violations subject to  
912 assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

913 Section 70. Amend § 4414 (a), Title 21 of the Delaware Code by striking the phrase “fined not less than \$28.75 nor more  
914 than \$115” from that subsection and by substituting in lieu thereof the phrase “assessed not less than \$28.75 nor more than \$115.  
915 Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

916 Section 71. Amend § 4415 (k), Title 21 of the Delaware Code by striking the language of that subsection in its entirety  
917 and by substituting in lieu thereof the following:

918 “(k) Any wrecker owner who violates this Section shall, for the first infraction, be assessed not less than \$25 nor  
919 more than \$50 for each vehicle violation. For each subsequent like infraction within one year the wrecker  
920 owner shall be assessed not less than \$50 nor more than \$100 for each vehicle violation. Violations subject  
921 to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

922 Section 72. Amend § 4709, Title 21 of the Delaware Code by striking the language of that Section in its entirety and by  
923 substituting in lieu thereof the following:

924 “Any person, driver or motor carrier who violates any subpart of this Chapter, or fails to do any act required by  
925 any subpart in this Chapter or does any act forbidden in this Chapter or subpart of the Code of Federal Regulations  
926 hereby adopted, upon a finding of responsibility for an infraction thereof, shall be held liable to pay an assessment for  
927 each violation of not less than \$28.75 nor more than \$115. Any such person, driver or motor carrier committing a  
928 second or subsequent infraction within two years upon a finding of responsibility thereof shall be held liable to pay an

assessment of not less than \$115 nor more than \$575. Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 73. Amend § 4802 (g)(2)(c), Title 21 of the Delaware Code by striking the language of that subparagraph in its entirety and by substituting in lieu thereof the following:

“(c) Where there is no other violation of this Title in addition to a violation of this Section, an assessment of \$25 shall be imposed. The failure to wear a seat belt by more than one person in the same vehicle at the same time is required by this Section, shall be treated as a single civil infraction. Violations subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 74. Amend § 4803 (c), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

“(c) A violation of this Section shall be an infraction subject to an assessment of \$25 for each violation. The failure to provide a child restraint system or seat belt for more than one child in the same vehicle at the same time, as required by this Section, shall not be treated as a separate infraction. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 75. Amend § 6707, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that Section in its entirety and by substituting in lieu thereof the following:

“(a) Whoever violates this Chapter shall be assessed not less than \$28.75 nor more than \$115. For each subsequent like infraction the person shall be assessed not less than \$115 nor more than \$230. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

(b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and punished as set forth in the statute defining the violation or any statute directly related thereto.”.

Section 76. Amend § 6814 (b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

“(b) Any person found responsible for an infraction in violation of any provision of subsection (a) of this Section shall be assessed not less than \$50 nor more than \$300 and have the OHV impounded for a period of 30 days. Impoundment of an OHV under this subsection shall be at the expense of the owner of the OHV. Violations

subject to assessment under this Section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 77. Amend §6821(b), Title 21 of the Delaware code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

“(b) Assessments.

(1) A person who violates subsection (a) of this Section shall be subject to the following assessments:

- a. For the first infraction, an assessment of \$100 and an impoundment of the OHV at time of finding of responsibility for the infraction for up to 30 days, which may be suspended by the Court.
- b. For each subsequent infraction, the OHV owner shall be assessed \$1,000 and the OHV will be impounded for a minimum of 60 days from the date of the finding of responsibility for the infraction. A subsequent infraction, before being subject to assessment or punishment as such, shall have been committed within 24 months after commission of the first infraction.
- c. Under this Section, the OHV will be returned to the owner once the assessment and impoundment costs have been paid by the OHV owner or, if the assessment is appealed, once the owner has complied with the Court’s decision or the Court decides the owner and/or operator is not responsible for the infraction under subsection (a) of this Section. The owner will not be responsible for the impoundment costs if found not responsible by the Court.

(2) In addition, restitution shall be made for value of damage to real or personal property which results from a violation of this Section.

(3) Violations subject to assessment under this section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 78. Amend § 6831, Title 21 of the Delaware code by striking the language of that Section in its entirety and by substituting in lieu thereof the following:

“(a) Whoever violates this Chapter shall be assessed not less than \$11.50 nor more than \$345, or have the OHV impounded for a period of 30 days or both. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

(b) Notwithstanding the provisions of subsection (a) of this Section, this Section shall not apply to violations for which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified and punished as set forth in the statute defining the violation of any statute directly related thereto.”.

Section 79. Amend § 7001(f), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

“(f) Whoever violates this Section shall be assessed not less than \$50 nor more than \$100. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 80. Amend § 7104, Title 21 of the Delaware Code by striking the language of that Section in its entirety and by substituting in lieu thereof the following:

“Whoever violates this Chapter shall be responsible for assessment for a civil infraction as defined in § 236 of Title 11, the assessment for which shall be prescribed by § 4205 of this Title.”.

Section 81. Amend § 5211 (b), Title 30 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

“(b) Whoever violates this Section shall, for the first infraction, be assessed not less than \$115 nor more than \$345, and for each subsequent infraction, not less than \$345 nor more than \$575. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

Section 82. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

#### SYNOPSIS

This Act is a companion to those recent statutory enactments creating certain traffic offenses that call for civil penalties. It will redesignate most of the motor vehicle offenses currently promulgated by the Delaware Code as “civil infractions”, excepting those which involve driving that causes physical injury, driving while under the influence of drugs or alcohol, reckless driving, aggressive driving, driving while suspended or driving without insurance. Those traffic offenses that will be designated as civil infractions by this Act will carry no possible jail time, be punished by limited fines and, unless expressly permitted by statute, will not be included in a person’s accessible criminal or motor vehicle record.

This Act also provides that civil infractions will generally be tried as civil proceedings in the Justice of the Peace Court. This will permit the judiciary and the Attorney General to concentrate the valuable resources currently used to litigate traffic offenses as criminal matters on more serious or complex criminal and motor vehicle matters. Similar legislation was first recommended in the final report of the Delaware Supreme Court’s Committee on Speedy Trial Guidelines which was issued on November 1, 2000.