



SPONSOR: Rep. Valihura & Rep. Stone
Rep. Wagner

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

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.”.

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

20 “(a) The Justices of the Peace shall have original jurisdiction to hear, try and finally determine all violations
21 and civil infractions alleged to have been committed. They shall have original jurisdiction to hear, try
22 and finally determine all offenses and civil infractions committed within the City of Wilmington against
23 any of the laws, ordinances, regulations or charter of the City.”.

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

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

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

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

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

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

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

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

47 “§ 1902A. Stop for civil infraction.

- 48 (a) Notwithstanding any law, rule or regulation to the contrary, a peace officer is authorized to make an
49 administrative stop of any person abroad, or in a public place, for purposes of enforcing any provision of
50 this Code designated as a civil infraction when the officer has a reasonable and articulate suspicion that a
51 violation of such a provision of this Code has occurred.
- 52 (b) Whenever any person is stopped for a civil infraction pursuant to subsection (a) of this section, the peace
53 officer may detain that person for a reasonable period of time necessary to identify the person, check for
54 outstanding warrants, check the status of the person’s driver’s license or driving privileges or insurance
55 identification card, where applicable to the purposes of the stop, and complete and issue a summons for
56 or notice of the civil infraction.
- 57 (c) (1) Any person who is stopped pursuant to subsection (a) of this section is required to identify
58 himself or herself to the peace officer by giving his or her name, current address, and date of
59 birth. When issued a summons pursuant to §1907A of this Title, the person is also required to
60 sign an acknowledgement of receipt of the summons for or notice of the civil infraction. A
61 person who fails to reasonably identify himself or herself to a peace officer may be detained for
62 a period of time not longer than is reasonably necessary to identify the person for purposes of
63 issuing a summons or notice for the civil infraction.
- 64 (2) Nothing in this subsection shall be deemed to preclude the continued detention of a person
65 initially stopped pursuant to the provisions of this section when a law enforcement officer has
66 reasonable ground to suspect that the person is committing, has committed or is about to
67 commit a crime or offense. Nothing in this subsection shall be deemed to preclude the arrest of
68 a person initially stopped pursuant to the provisions of this section when a law enforcement
69 officer has probable cause to believe that the person is committing, has committed or is about to
70 commit a crime or offense.
- 71 (d) An administrative stop made pursuant to this section is not an arrest and shall not be recorded as an arrest
72 in any official record.”.

73 Section 9. Amend § 1903, Title 11 of the Delaware Code by striking the phrase “§ 1902 of this Title” and by inserting in
74 lieu thereof the phrase “§ 1902 or § 1902A of this Title”.

75 Section 10. Amend Chapter 19, Title 11 of the Delaware Code by adding a new section thereto designated as § 1907A,
76 which shall read as follows:

77 “§ 1907A. Summons for civil infraction.

78 (a) An investigating peace officer may issue a summons to a person for purposes of enforcing any provision
79 of this Code designated as a civil infraction upon reasonable and articulable suspicion that a violation of
80 such a provision of this Code has occurred. The summons issued shall be for an appearance at a
81 subsequent date before a Justice of the Peace Court which is located in the same County wherein the
82 infraction occurred, unless a Justice of the Peace Court located in another County is closer to the place
83 where the infraction occurred, in which case the investigating officer may summon the person to appear
84 at a subsequent date before said Court.

85 (b) Any summons for a civil infraction issued pursuant to this subsection shall be in a written form
86 substantially similar to that provided for in § 1907 of this Title or, where appropriate, in the form of a
87 Uniform Traffic Complaint and Summons as provided for in Title 21 of this Code.

88 (c) If the person fails to appear in answer to the summons he or she shall be subject to the provisions of §
89 1907 of this Title, the provisions of § 702 of Title 21 or the provisions of Chapter 76 of Title 10.”.

90 Section 11. Amend § 701, Title 21 of the Delaware Code by substituting the word “stops” for the word “arrests” as it
91 appears in subsection (c) of that section and by redesignating subsections (c), (d) and (e) of that section as subsections (d), (e) and
92 (f) thereto respectively.

93 Section 12. Further amend § 701, Title 21 of the Delaware Code by striking the language of the catch line and subsections
94 (a) and (b) of that section in it entirety and by substituting in lieu thereof the following:

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

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

101 (1) For any violation of this Title, other than one designated as a civil infraction as defined in § 236
102 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 identification card, and the vehicle's registration, and complete and issue a summons for or notice of the civil infraction.

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

(4) Nothing in this subsection shall be deemed to preclude the continued detention of a person initially stopped pursuant to the provisions of this subsection when a law enforcement officer has reasonable ground to suspect that the person is committing, has committed or is about to

132 commit a crime or offense. Nothing in this subsection shall be deemed to preclude the arrest of
133 a person initially stopped pursuant to the provisions of this subsection when a law enforcement
134 officer has probable cause to believe that the person is committing, has committed or is about to
135 commit a crime or offense.”.

136 Section 13. Amend Chapter 5, Title 11 of the Delaware Code by redesignating current § 1257A as § 1257B and by adding
137 a new section thereto designated as § 1257A, which shall read as follows:

138 “§ 1257A. Resisting detention for an administrative stop; class B misdemeanor.

139 A person is guilty of resisting detention for an administrative stop when the person intentionally:

- 140 (a) prevents or attempts to prevent a peace officer from effecting a detention of the person or another
141 person for an administrative stop made pursuant to §1902A of this Title or §701 of Title 21; or
- 142 (b) flees from a peace officer who is effecting such stop; or
- 143 (c) fails to provide the identifying information required or otherwise submit to the procedures provided
144 under §1902A of this Title or §701 of Title 21 when such an administrative stop is effected.

145 Resisting detention for an administrative stop is a class B misdemeanor.”.

146 Section 14. Amend § 703, Title 21 of the Delaware Code by redesignating current subsections (c), (d), (e), (f), (g) and (h)
147 thereof as subsections (d), (e), (f), (g), (h) and (i) and by inserting a new subsection “(c)” thereto as follows:

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

155 Section 15. Amend § 703A, Title 21 of the Delaware Code by designating the current language of that language as
156 subsection (a) of that section and by inserting a new subsection “(b)” thereto as follows:

157 “(b) Unless a statute within this Title defining a civil infraction or a statute directly related thereto expressly
158 provides otherwise, there shall be no entry on the motor vehicle operating record of a person held liable
159 for an assessment for a civil infraction. Unless the statute within this Title defining a civil infraction or a
160 statute directly related thereto expressly provides otherwise, no motor vehicle points shall be assessed
161 against any person held liable for an assessment for a civil infraction. When reporting of a finding of
162 liability for a civil infraction is required, such reporting shall be deemed acceptable if it is made in either
163 written form or by electronic data transfer. The original documents related to the finding of
164 responsibility shall be retained by the Court and forwarded to the Division upon request.”.

165 Section 16. Amend § 709(a), Title 21 of the Delaware Code by deleting the first two sentences of that subsection and by
166 substituting in lieu thereof the following:

167 “(a) Applicability.

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

176 Section 17. Further Amend § 709, Title 21 of the Delaware Code by striking the language of subsections (e), (f), (g), (h),
177 (i), (j) and (k) of that section in its entirety and by substituting in lieu thereof the following:

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

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

- 183 (1) Violation of § 2118 of this Title;
- 184 (2) Violation of § 2118A of this Title;
- 185 (3) Violation of § 2701 of this Title;

- 186 (4) Violation of § 2751 of this Title;
- 187 (5) Violation of § 2752 of this Title;
- 188 (6) Violation of § 2756 of this Title;
- 189 (7) Violation of § 4103 of this Title;
- 190 (8) Violation of § 4175 of this Title;
- 191 (9) Violation of § 4175A of this Title;
- 192 (10) Violation of § 4176A of this Title;
- 193 (11) Violation of § 4176B of this Title;
- 194 (12) Violation of § 4177 of this Title;
- 195 (13) Violation of § 4177L of this Title;
- 196 (14) Violation of § 4177M of this Title;
- 197 (15) Violation of § 4201 of this Title;
- 198 (16) Violation of § 4202 of this Title;
- 199 (17) Any violation of Chapter 67 of this Title; and
- 200 (18) Violations of other sections of this Title which are deemed not appropriate for processing by
- 201 voluntary assessment.
- 202 (f) Procedures for voluntary assessment.
- 203 (1) At the time of making an arrest or stop for any offense or civil infraction subject to this section,
- 204 the arresting or investigating officer shall determine whether the offense or civil infraction may
- 205 be handled as a voluntary assessment. If the officer determines that the offense or civil
- 206 infraction may be so treated, the officer may indicate on the Uniform Traffic Complaint and
- 207 Summons that payment shall be made by voluntary assessment, unless the driver requests a
- 208 hearing on the charge(s) or infraction(s). The officer shall inform the detained or arrested
- 209 person of the Court or voluntary assessment center to which payment should be submitted if the
- 210 person does not request a hearing. No officer shall receive or accept custody of a payment.
- 211 (2) A driver who has been given a Uniform Traffic Complaint and Summons which specifies that
- 212 payment be made by voluntary assessment shall pay the fine or civil assessment, together with
- 213 costs and penalty assessments, within 30 days from the date of arrest or stop during which time
- 214 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 this Title and 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 this Title and Chapter 76 of Title 10.

(g) Penalty or assessment.

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 or assessment for an offense or civil infraction under this section 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,

244 and a complete satisfaction of the violation or civil infraction, except as provided in paragraph
245 (2) of this subsection. Anything in this section notwithstanding, if an agreement for a voluntary
246 assessment is signed by the driver, the signature of the driver shall constitute an
247 acknowledgment of guilt of the stated offense or an admission of responsibility for the stated
248 civil infraction and an agreement to pay the fine or assessment, together with costs and penalty
249 assessment within 30 days from the date of arrest or stop. Payment does not waive any
250 administrative penalty which may be lawfully charged to the violator's driving record by the
251 Department of Transportation.

252 (2) In the event that, following compliance with the payment provisions of this section, it is
253 determined that within the two-year period immediately preceding the violation or infraction,
254 the person was convicted of, found responsible for or made a payment pursuant to this section
255 in satisfaction of a violation or infraction of the same section of this Title, personal appearance
256 before the Court to which the summons is returnable or the Court which is associated with the
257 applicable voluntary assessment center may be required.

258 (j) Failure to pay a voluntary assessment.

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

- 263 a. Failed to pay the voluntary assessment within 30 days from the date of arrest or stop;
- 264 and
- 265 b. Not notified the Court or voluntary assessment center within 30 days from the date of
- 266 arrest or stop, in writing, that he or she is requesting a hearing on the charge or
- 267 infraction stated in the Uniform Traffic Complaint and Summons. The Division of
- 268 Motor Vehicles shall then suspend the driver's license for Delaware residents, or may
- 269 suspend the driving privileges in this State of a nonresident of Delaware and
- 270 immediately advise the Motor Vehicle Administrator of the state wherein the person is
- 271 a resident that the person's license to drive be suspended in accordance with § 2732(g)
- 272 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 18. Amend § 9012, Title 11 of the Delaware Code by redesignating subsection “(b)” of that section as subsection “(c)” of that section and adding a new subsection “(b)” thereto to read as follows:

“(b) Where the statute defining a civil infraction, as defined in § 236 of this Title, or a statute directly related thereto expressly so provides, the victim's compensation penalty assessment provided for in this section shall be assessed in the same manner as for crimes and offenses as set forth in subsection (a) of this section.”.

Section 19. Amend § 4101(d), Title 11 of the Delaware Code by adding a third sentence to the first paragraph of that subsection to read as follows:

“Where the statute defining a civil infraction, as defined in § 236 of this Title, or a statute directly related thereto expressly so provides, the penalty assessment provided for in this subsection shall be assessed in the same manner as for crimes and offenses as set forth in this section.”.

Section 20. 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.

(a) In addition to the notice of a civil infraction provided for by summons issued pursuant to § 1907A of Title 11 or § 703 of Title 21, a Court with jurisdiction over a civil infraction may issue a notice of civil

331 infraction upon receipt of a written statement of an investigating law enforcement officer or the Attorney
332 General that there is reasonable and articulable suspicion to believe that a civil infraction was committed.
333 Notice of a civil infraction may also be by indictment or information if such civil infraction is properly
334 joined with crimes or offenses.

- 335 (b) A summons for a civil infraction property issued pursuant to § 1907A of Title 11 or § 703 of Title 21 or
336 a notice of civil infraction issued pursuant to subsection (a) of this section represents a determination that
337 an infraction has been committed. That determination will be final unless contested as provided in this
338 Chapter or in applicable court rules governing such proceedings.

339 § 7603. Response to notice; contesting determination; hearing; failure to respond or appear; default judgment.

- 340 (a) Any person who receives a summons for or notice of a civil infraction shall respond to such summons or
341 notice in a manner as provided in this section or inapplicable court rules governing such proceedings
342 within thirty days of the date of the summons or notice or, where applicable, as provided in § 709 of
343 Title 21.
- 344 (b) If the person determined to have committed the infraction does not contest the determination and
345 responsibility for the infraction, the person shall respond to the Court or voluntary assessment center to
346 which the summons or notice is returnable in a manner provided for in this section or in applicable court
347 rules governing such proceedings.
- 348 (c) If the person determined to have committed the infraction wishes to contest the determination and
349 responsibility for the infraction, the person shall respond to the court to which the summons or notice is
350 returnable by requesting a contested hearing in a manner provided for in this section or in applicable
351 court rules governing such proceedings. The Court shall notify the person in writing of the time, place,
352 and date of the hearing.
- 353 (d) If the person determined to have committed the infraction does not contest the determination or
354 responsibility for the infraction, but wishes to explain mitigating circumstances surrounding the
355 infraction, the person shall respond to the Court to which the summons or notice is returnable in a
356 manner provided for in this section or in applicable court rules governing such proceedings. The Court
357 shall notify the person in writing of the time, place, and date of the hearing.
- 358 (e) (1) In hearings conducted pursuant to subsection (c) or (d) of this section, the Court may defer
359 findings, or in a hearing to explain mitigating circumstances may defer entry of its order finding

responsibility for an infraction, for up to one (1) 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 of §§ 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 other provisions of this Chapter or applicable court rules governing such proceedings.

§ 7604. Refusal of registration renewal.

(a) 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.

- (b) Notwithstanding the provisions of subsection (a) of this section, where the vehicle operated at the time the summons or notice was issued was operated by a minor with the consent of the registered owner and such minor or registered owner has not responded within the required time by either paying the civil assessment or requesting a hearing, 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. Pre-hearing procedures.

- (a) Pursuant to the rules governing civil infractions promulgated by a court in which such infractions are heard, the respondent and the State may request that such court issue subpoena for the attendance of witnesses and/or the production of documentary evidence at a hearing held pursuant to § 7603 (c) of this Title.
- (b) The rules governing civil infractions promulgated by a court in which such infractions are heard may establish procedures for the pre-hearing inspection and discovery of persons and things that might lead to evidence admissible at the civil infraction hearing. Such rules may also establish sanctions for the failure to comply with those rules.

§ 7606. 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) The Delaware Rules of Evidence should be followed insofar as practicable; however, 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 subsection is to be construed as abrogating the provisions of any rule of evidence or any statute relating to privileged communications.
- (c) 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.
- (d) (1) 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.
- (2) 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.

(3) 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.

(e) In proceedings to explain mitigating circumstances:

(1) The procedure shall be informal and shall be limited to the issue of mitigating circumstances. A person who requests to explain mitigating circumstances shall not be permitted to contest the determination or responsibility for the civil infraction.

(2) After the Court has received the explanation, the Court shall enter a judgment finding the respondent responsible for the civil infraction and assessing such civil assessment as it deems appropriate under the law.

(3) The Court, after receiving the explanation may vacate the admission of responsibility and dismiss the civil infraction with prejudice only where the explanation of mitigating circumstances establishes that the civil infraction was not committed or otherwise for good cause shown.

(4) There shall be no appeal from an order entered under this the subsection.

§ 7607. Payment of assessments; penalties and costs.

(a) Upon being found responsible for a civil infraction, all the costs shall be paid by the respondent found responsible.

(b) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise, the videophone assessment provided for in § 4101(d) of Title 11 shall not be assessed for a civil infraction.

(c) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise, the victim's compensation penalty assessment provided for in § 9012 of Title 11 shall not be assessed for civil infractions.

(d) Unless the statute defining a civil infraction or a statute directly related thereto expressly provides otherwise, court costs for civil infractions shall be \$35, unless paid by voluntary assessment, in which case the court costs shall be \$15.

(e) Immediately upon imposition by a court of a civil assessment or costs or both, including a default judgment, the same shall be a judgment against the person found responsible for the full amount of the assessment or costs or both. If not paid promptly upon its imposition or in accordance with the terms of

the order of the Court, the clerk may, upon motion of either party or the Court *sua sponte*, cause the judgment to be transferred to the civil judgment docket whence it may be executed and enforced or transferred in the same manner as other judgments of the Court; provided, however, that where a stay of execution is otherwise permitted by law such a stay shall not be granted as a matter of right, but only within the discretion of the court.

- (f) Any governmental entity to which assessments, penalties or costs for a civil infraction are payable pursuant to this section or any other provision of law may pursue execution on such judgment.
- (g) Upon any reversal of a finding of responsibility, the State Treasurer shall remit to each person, or to the attorney of such person, any civil assessment or costs or both which was later set aside by a Court of higher jurisdiction upon a *certiorari* or appeal from the lower Court, in the same manner as provided in § 4103 of Title 11 for fines.
- (h) For purposes of ensuring the payment of civil assessments and cost and the enforcement of any orders imposed, the Court shall retain jurisdiction over the person found responsible for a civil infraction until any civil assessment or costs imposed are paid in full. The Court may discharge the civil assessment and costs of any person found responsible when the Court receives evidence that such person is deceased.
- (i) The provisions of § 706 of Title 21 shall be applicable to the disposition of amounts collected for civil assessments and costs related to civil infractions set forth in Title 21.

§ 7608. Appeal.

- (a) Any persons found responsible after a hearing held pursuant to § 7603(c) of this Title for a civil infraction as defined in § 236 of Title 11, or under any municipal ordinance or other law, within the State before an alderman or mayor of any incorporated city or town, shall have the right of an appeal, unless otherwise stated in this Chapter, to the Court of Common Pleas, upon giving bond in a sum equal to the assessment and court costs levied to the State with surety satisfactory to the alderman, mayor or judge before whom such person was found responsible for the civil infraction, such appeal to be taken and bond given within 15 days from time of the finding of responsibility. Such appeal shall operate as a stay or supersedes 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 a writ of *certiorari* in the Superior Court. Such appeal to the Court of Common Pleas shall be heard *de novo*.

- (b) Except as provided in subsection (a) of this section, any person found responsible after a hearing in the Justice of the Peace Court 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 Court of Common Pleas only in those cases in which the civil assessment for the infraction exceeded \$230, upon giving bond with surety satisfactory to the justice of the peace or 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 supersedes 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 \$230, 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 assessments from such separate infractions for purposes of meeting the jurisdictional requirements of this section.

§ 7609. 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.

§ 7610. 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 and 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.

§ 7611. Court or administrative rules.

(a) The Justice of the Peace Court, 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 that Court from their inception to their termination provided such rules are not contrary to this Chapter.

(b) The judges of the Court of Common Pleas, or a majority of them, 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 that Court from their inception to their termination provided such rules are not contrary to this Chapter.”.

Section 21. Amend Chapter 8, Title 21 the Delaware Code by striking the language of that Chapter in its entirety and by substituting in lieu thereof the following:

“CHAPTER 8.

PROVISIONS REGARDING CIVIL TRAFFIC INFRACTIONS

§ 801. Applicability.

(a) Unless the statute defining a civil infraction in this Title or a statute directly related thereto expressly provides otherwise, the provisions of Chapter 76 of Title 10 shall apply to the proceedings for any civil infraction defined in this Title.

(b) The proceedings for civil infractions created pursuant to § 4101(d) and § 4802 of this Title shall be governed by the provisions and procedures set forth in those provisions of this Title.

§ 802. Classification of certain provisions as civil infractions.

533 Where the statutes defining violations of the following provisions of this Title or any other Title or a statute
534 directly related thereto expressly provide, the following shall be designated as civil infractions as defined in § 236 of Title
535 11:

536	<i>Title 21, Section(s)</i>	<i>Infraction</i>
537	§ 315	Failure to report change of address
538	§ 318	Notorial fee violations
539	§ 2102	New resident vehicle registration violations
540	c. 21, et seq.	Vehicle registration and plate violations
541	c. 23, et seq.	Vehicle titling violations
542	c. 25, et seq.	Vehicle transfer violations
543	§4101(d)	Red-light camera violations
544	§4108	Traffic light violations
545	§4126	Controlled-access highway violations
546	§§4146 and 4148	Pedestrian on highway violations
547	§4169	Speeding violations
548	§4172	Speed exhibitions
549	§4172A	Mischief by a motor vehicle
550	§4176	Careless/inattentive driving
551	§4176C	Cell phone use/school bus driver
552	§4180	Miscellaneous parking violations
553	§4188	Following fire apparatus, etc.
554	§4189	Putting glass, etc. on a highway
555	§4191A	Trespass by a motor vehicle or OHV
556	§4198J	Biking under the influence
557	§4198K	Child bike helmet violations
558	§4198N	Motorized scooter violations
559	§4198O	EPAMD violations
560	c. 43, et seq.	General equipment violations
561	c. 44, et seq.	Abandoned vehicle violations

562	§4802	Seat belt violations
563	§4803	Child restraint violations
564	c. 68, et seq.	OHV violations
565	§7001	Parking in a fire lane
566	c. 71, et seq.	Funeral procession violations
567	<i>Title 30, Section(s)</i>	<i>Infraction</i>
568	c. 52, et seq.	Motor Carriers Fuel Purchase violations
569	§ 803. Certain assessments applicable to civil traffic infractions.	
570	(a)	Unless the statute defining a civil infraction in this Title or a statute directly related thereto expressly
571		provides otherwise, the videophone assessment provided for in § 4101(d) of Title 11 shall be assessed for
572		a civil infraction defined in this Title.
573	(b)	Unless the statute defining a civil infraction in this Title or a statute directly related thereto expressly
574		provides otherwise, the victim's compensation penalty assessment provided for in § 9012 of Title 11
575		shall be assessed for a civil infraction defined in this Title.
576	§ 804. Local Authorities' Powers.	
577	Local authorities, except as expressly authorized by law, shall not enact or enforce any ordinances, rules or	
578	regulations contrary to the provisions of this Title that define certain violations of a statute in this Title as civil infractions.	
579	Traffic ordinances and regulations adopted by local authorities, and substantially conforming to the sections of this Title,	
580	shall have the same force and effect as the traffic laws of this Title. Whenever any provision of this Title refers to a	
581	specific section of this Title, such section shall be deemed to include substantially conforming ordinances and regulations	
582	enacted by local authorities. The Court's notice of conviction or finding of responsibility for a civil infraction for violating	
583	a local ordinance or regulation that substantially conforms to this Title, when included in the person's driving record, shall	
584	be deemed to be equivalent to a violation of the State statute to which it conforms. This section shall not be deemed to	
585	affect the jurisdiction for violations of local traffic ordinances or regulations nor the fine or assessment to be imposed for	
586	such a violation. Local authorities may regulate the use of the highways by processions or assemblages. Nothing in this	
587	Chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by	
588	permission of the owner and not as a matter of right from prohibiting such use nor requiring other or different or additional	
589	conditions than those specified in this Chapter or otherwise regulating such use as seems best to such owner.".	

590 Section 22. Amend § 315, Title 21 of the Delaware Code by striking the phrase “be fined, for the first offense, not less
591 than \$10 nor more than \$50. For each subsequent like offense, such person shall be fined not less than \$50 nor more than \$100”
592 and by substituting in lieu thereof the phrase “, for the first infraction, be assessed not less than \$10 not more than \$50. For each
593 subsequent like infraction, such person shall be assessed not less than \$50 nor more than \$100. Violations of this section shall be
594 deemed to be civil infractions as defined in § 236 of Title 11.”.

595 Section 23. Amend § 318, Title 21 of the Delaware Code by striking the phrase “be fined not more than \$200 or
596 imprisoned not more than 6 months in the discretion of the Court” and by substituting in lieu thereof the phrase “be assessed not
597 more than \$200. Violations of this section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

598 Section 24. Amend § 2102(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and
599 by substituting in lieu thereof the following:

600 "(b) Whoever violates subsection (a) of this section shall for the first infraction be assessed not less than \$25
601 nor more than \$100. For each subsequent like infraction, the person shall be assessed not less than \$50
602 nor more than \$100. Violations subject to assessment under this subsection shall be deemed to be civil
603 infractions as defined in § 236 of Title 11.”.

604 Section 25. Amend § 2116, Title 21 of the Delaware Code by striking the language of subsections (a), (b) and (c) of that
605 section in its entirety and by substituting in lieu thereof the following:

606 “(a) Whoever violates this Chapter shall, for the first infraction, be assessed not less than \$10 nor more than
607 \$100. For each subsequent like infraction, the person shall be assessed not less than \$50 nor more \$200,
608 in addition to which any person, being the operator or owner of any vehicle which requires a registration
609 fee which is calculated upon the gross weight of the vehicle and any load thereon shall be assessed at a
610 rate double that which is set forth in this subsection. In addition, such person shall also be assessed in an
611 amount which is equal to the cost of registering the vehicle at its gross weight at the time of the offense
612 or at the maximum legal limit, whichever is less; which assessment shall be suspended, if within five (5)
613 days of the infraction the Court is presented with a valid registration card for the gross weight at the time
614 of the infraction for the maximum legal limit for such vehicle. Violations subject to assessment under
615 this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

616 (b) (1) Notwithstanding the provisions of subsection (a) of this section, whoever violates § 2115(1)-(5)

617 of this Title shall, for the first infraction, be assessed not less than \$50 nor more than \$200. For
618 each subsequent like infraction, such person shall be assessed not less than \$100 nor more than
619 \$300.

620 (2) Any owner or operator of a vehicle which requires a registration fee which is calculated upon
621 the gross weight of the vehicle, and any load thereon, and who violates § 2115(1)-(5) of this
622 Title, shall be assessed at a rate double that which is set forth in this subsection. In addition,
623 such person shall also be assessed an amount which is equal to the costs of registering the
624 vehicle either at its gross weight at the time of the infraction, or at the maximum legal limit,
625 whichever is less. Such assessment shall be suspended if, within five (5) days of the offense,
626 the Court is presented with a valid registration card for the actual gross weight of the vehicle at
627 the time of the infraction.

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

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

634 Section 26. Amend § 2133(a)(3), Title 21 of the Delaware Code by striking the phrase “for the first offense be fined not
635 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,
636 or imprisoned not less than 10 nor more than 30 days, or both” from that paragraph and by substituting in lieu thereof the phrase “,
637 for the first infraction, be assessed not less than \$25 nor more than \$100. For each subsequent like infraction, the person shall be
638 assessed not less than \$50 nor more than \$200. Violations of this section shall be deemed to be civil infractions as defined in § 236
639 of Title 11.”.

640 Section 27. Amend § 2133(b), Title 21 of the Delaware Code by striking the word “offenses” from that subsection by
641 substituting in lieu thereof the word “infractions”.

642 Section 28. Amend § 2174, Title 21 of the Delaware Code by striking the phrase “for the first offense be fined not less
643 than \$25 nor more than \$100. For each subsequent like offense, such person shall be fined not less than \$100 nor more than \$200,
644 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
645 the first infraction, be assessed not less than \$25 nor more than \$100. For each subsequent like infraction, the person shall be

646 assessed not less than \$100 nor more than \$200. Violations subject to assessment under this section shall be deemed to be civil
647 infractions as defined in § 236 of Title 11.”.

648 Section 29. Amend § 2315, Title 21 of the Delaware Code by striking the phrase “fined not less than \$100 nor more than
649 \$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
650 phrase “assessed not less than \$100 nor more than \$1000. Violations subject to assessment under this section shall be deemed to be
651 civil infractions as defined in § 236 of Title 11.”.

652 Section 30. Amend § 2351, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that
653 section in its entirety and by substituting in lieu thereof the following:

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

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

660 Section 31. Amend § 2510(a), Title 21 of the Delaware Code by striking the phrase “fined not less than \$25 nor more than
661 \$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
662 phrase “assessed not less than \$25 nor more than \$500. Violations subject to assessment under this subsection shall be deemed to
663 be civil infractions as defined in § 236 of Title 11.”.

664 Section 32. Amend § 2511, Title 21 of the Delaware Code by striking the language of subsections (a) and (b) of that
665 section in its entirety and by substituting in lieu thereof the following:

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

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

673 Section 33. Amend §2603(9), Title 21 of the Delaware Code by striking the phrase “adjudication of guilt, or a
674 determination” as it appears in that subsection and by substituting in lieu thereof the phrase “adjudication of guilt or finding of
675 responsibility for a civil infraction, or any other determination”.

676 Section 34. Amend § 2625, Title 21 of the Delaware Code by striking the phrase “conviction for any violation” from that
677 section and by substituting in lieu thereof the phrase “conviction for any violation or the finding of responsibility for any civil
678 infraction”.

679 Section 35. Amend § 4101(d), Title 21 of the Delaware Code by striking the phrase “the Division of Motor Vehicles shall
680 suspend the license of the owner or operator” as it appears in the second sentence of that subsection and by inserting in lieu thereof
681 the phrase “the Division of Motor Vehicles shall suspend the driver’s license of the owner or operator who is a Delaware resident,
682 or may suspend the driving privileges in this State of a nonresident of Delaware and immediately advise the Motor Vehicle
683 Administrator of the State wherein the person is a resident that the person’s license to drive be suspended in accordance with
684 §2732(g) of this Title. The court may also enter such orders as may be appropriate and authorized under the provisions of §§ 1907
685 or 1907A of Title 11, the provisions of §§ 702 or 709 of this Title or other provision of Chapter 76 of Title 10.”.

686 Section 36. Amend § 4102, Title 21 of the Delaware Code by deleting the phrase "with respect to particular offenses," and
687 by substituting in lieu thereof the phrase "with respect to particular offenses or civil infractions,".

688 Section 37. Amend § 4105(f)(1), Title 21 of the Delaware Code by deleting the phrase "fined not less than double the
689 enumerated amount for a 1st offense" and by substituting in lieu thereof the phrase "fined or assessed not less than double the
690 enumerated amount for a first offense or infraction.".

691 Section 38. Amend § 4108(d), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and
692 by substituting in lieu thereof the following:

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

698 Section 39. Amend § 4126(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and
699 by substituting in lieu thereof the following:

700 "(b) Whoever violates subsection (a) of this section shall for the first infraction be assessed not less than \$25
701 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 40. 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 subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 41. 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 one (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 42. Amend § 4169(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) Assessments for violation of this section are as follows:

- (1) Whoever violates this section shall for the first infraction be assessed \$20. For each subsequent infraction, the person shall be assessed \$25. A subsequent infraction, before being subject to assessment as such, shall have been committed within 24 months after the commission of the prior infraction.
- (2) Any person violating this section who exceeds the maximum speed limit by more than 5 miles per hour but less than 16 miles per hour shall pay an additional assessment of \$1 per mile, if such violation is a first infraction, or \$2 per mile, if such violation is a subsequent infraction, for each mile in excess of the maximum speed limit.
- (3) Any person violating this section who exceeds the maximum speed limit by more than 15 miles per hour but less than 20 miles per hour shall pay an additional assessment of \$2 per mile, if such violation is a first infraction, or \$3 per mile, if such violation is a subsequent infraction, for each mile in excess of the maximum speed limit.

(4) Any person violating this section who exceeds the maximum speed limit by more than 19 miles per hour shall pay an additional assessment of \$3 per mile, if such violation is a first infraction, or \$4 per mile, if such violation is a second infraction, for each mile in excess of the maximum speed limit.

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

Section 43. Amend § 4172(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) 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 six (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 one (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 44. 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 six (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 one (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 45. 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."

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

"(c) Whoever violates this section shall for the first infraction be assessed not less than \$25 nor more than \$115. For each subsequent like infraction occurring within 3 years of a former infraction, the person shall be assessed not less than \$50 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."

Section 47. Amend § 4176B, 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 violates this section shall for the first infraction be assessed not less than \$50 nor more than \$100. For each subsequent infraction the person shall be assessed not less than \$100 nor more than \$200 and shall have that person's school bus endorsement removed from that person's driver's license for a period of at least 6 months. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.

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

Section 48. Amend Chapter 41, Title 21 of the Delaware Code by redesignating current § 4176B as § 4176C and by adding a new section thereto designated as § 4176B, which shall read as follows:

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

(a) A person is guilty of operation of a vehicle causing injury to another when, in the course of driving or operating a motor vehicle or OHV in violation of any provision of this Chapter other than § 4177 of this

Title, the person's driving or operation of the vehicle or OHV causes physical injury or serious physical injury to another person.

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

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

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

a. For the first offense be fined not more than \$230 or imprisoned not more than 10 days, or 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 1st 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 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."

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

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

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

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

830 "(b) Assessments:

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

833 a. An assessment of not more than \$100 for a first infraction.

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

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

842 "(b) Whoever is found responsible for an infraction in violation of subsection (a) of this sections shall, for the
843 first infraction be assessed not less than \$150 nor more then \$750 and for subsequent infractions, be
844 assessed not less than \$400 nor more than \$1,150. A subsequent infraction must have been committed

within two (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 first 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."

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

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

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

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

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

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

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

Section 57. Amend § 4198N(h)(2), Title 21 of the Delaware Code by striking the language of that paragraph in its entirety and by substituting in lieu thereof the following:

"(2) Any parent or legal guardian who fails to cause that parent or legal guardian's child to wear a helmet, as provided in this subsection, shall be assessed for the 1st 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."

Section 58. Amend § 4198N(k), Title 21 of the Delaware Code by striking the language of that subsection in its entirety 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.
- (3) 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 crimes, offenses, violations or civil infractions for which a specific punishment or assessment is set forth elsewhere in this Chapter or Chapter 41 of this Title. All such crimes, offenses, violations or civil infractions shall be classified and punished as set forth in the statute defining the crime, offense, violation or civil infraction 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."

Section 67. Amend § 4371(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 \$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 subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

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

Section 69. Amend § 4373(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 any provision of this section shall be assessed not more than \$57.50. Violations subject to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11."

Section 70. Amend § 4414(a), Title 21 of the Delaware Code by striking the phrase "fined not less than \$28.75 nor more than \$115" from that subsection and by substituting in lieu thereof the phrase "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 71. Amend § 4415(k), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and by substituting in lieu thereof the following:

"(k) Any wrecker owner who violates this section shall, for the first infraction, be assessed not less than \$25 nor more than \$50 for each vehicle violation. For each subsequent like infraction within one year the wrecker owner shall be assessed not less than \$50 nor more than \$100 for each vehicle violation."

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

992 Section 72. Amend § 4802(g)(2)c., Title 21 of the Delaware Code by striking the language of that subparagraph in its
993 entirety and by substituting in lieu thereof the following:

994 “c. Where there is no other violation of this Title in addition to a violation of this section, an assessment of
995 \$25 shall be imposed. The failure to wear a seat belt by more than one person in the same vehicle at the
996 same time as required by this section, shall be treated as a single civil infraction. Violations subject to
997 assessment under this section shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

998 Section 73. Amend § 4803 (c), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and
999 by substituting in lieu thereof the following:

1000 “(c) A violation of this section shall be an infraction subject to an assessment of \$25 for each violation. The
1001 failure to provide a child restraint system or seat belt for more than one child in the same vehicle at the
1002 same time, as required by this section, shall not be treated as a separate infraction. Violations subject to
1003 assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title 11.”.

1004 Section 74. Amend § 6814 (b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety
1005 and by substituting in lieu thereof the following:

1006 “(b) Any person found responsible for an infraction in violation of any provision of subsection (a) of this
1007 section shall be assessed not less than \$50 nor more than \$300 and have the OHV impounded for a
1008 period of 30 days. Impoundment of an OHV under this subsection shall be at the expense of the owner of
1009 the OHV. Violations subject to assessment under this section shall be deemed to be civil infractions as
1010 defined in § 236 of Title 11.”.

1011 Section 75. Amend § 6821(b), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and
1012 by substituting in lieu thereof the following:

1013 “(b) Assessments.

1014 (1) A person who violates subsection (a) of this section shall be subject to the following
1015 assessments:

1016 a. For the first infraction, an assessment of \$100 and an impoundment of the OHV at
1017 time of finding of responsibility for the infraction for up to 30 days, which may be
1018 suspended by the Court.

- 1019 b. For each subsequent infraction, the OHV owner shall be assessed \$1,000 and the OHV
1020 will be impounded for a minimum of 60 days from the date of the finding of
1021 responsibility for the infraction. A subsequent infraction, before being subject to
1022 assessment or punishment as such, shall have been committed within 24 months after
1023 commission of the first infraction.
- 1024 c. Under this section, the OHV will be returned to the owner once the assessment and
1025 impoundment costs have been paid by the OHV owner or, if the assessment is appealed,
1026 once the owner has complied with the Court's decision or the Court decides the owner
1027 and/or operator is not responsible for the infraction under subsection (a) of this section. The
1028 owner will not be responsible for the impoundment costs if found not responsible by the
1029 Court.
- 1030 (2) In addition, restitution shall be made for the value of damage to real or personal property which
1031 results from a violation of this section.
- 1032 (3) Violations subject to assessment under this section shall be deemed to be civil infractions as
1033 defined in § 236 of Title 11.”.

1034 Section 76. Amend § 6831, Title 21 of the Delaware code by striking the language of that section in its entirety and by
1035 substituting in lieu thereof the following:

- 1036 “(a) Whoever violates this Chapter shall be assessed not less than \$11.50 nor more than \$345, or have the
1037 OHV impounded for a period of 30 days or both. Violations subject to assessment under this subsection
1038 shall be deemed to be civil infractions as defined in § 236 of Title 11.
- 1039 (b) Notwithstanding the provisions of subsection (a) of this section, this section shall not apply to violations
1040 for which a specific punishment is set forth elsewhere in this Chapter. Such violations shall be classified
1041 and punished as set forth in the statute defining the violation of any statute directly related thereto.”.

1042 Section 77. Amend § 7001(f), Title 21 of the Delaware Code by striking the language of that subsection in its entirety and
1043 by substituting in lieu thereof the following:

- 1044 “(f) Whoever violates this section shall be assessed not less than \$50 nor more than \$100. Violations subject
1045 to assessment under this subsection shall be deemed to be civil infractions as defined in § 236 of Title
1046 11.”.

Section 78. 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 and fees for which shall be prescribed by § 4205 of this Title.”.

Section 79. 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 80. 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.

Section 81. The provisions of this Act will take effect with respect to all civil infractions which are committed as of 12:01 a.m. , August 1, 2007, or thereafter.

Section 82. The provisions of Title 11, Title 21 or Title 30 which are amended or repealed by this Act shall remain in force and effect for the purpose of trial and sentencing for all crimes, offenses and violations which occur prior to 12:01 a.m., August 1, 2007.

Section 83. The repeal or amendment of any statute by this Act shall not have the effect of releasing or extinguishing any penalty, forfeiture or liability incurred under such statute, and such statute shall be treated as remaining in full force and effect for the purpose of sustaining any proper action or prosecution for enforcement of such penalty, forfeiture or liability. Any action, case, prosecution trial or other legal proceeding in progress under or pursuant to any statute repealed or amended by this Act shall be preserved and shall not become illegal or terminated irrespective of the stage of such proceedings. For the purpose of such proceedings, the prior law shall remain in full force and effect.

SYNOPSIS

This substitute for House Bill 312 introduces changes to the original version that are made after the gathering input and recommendations from the various public safety agencies and courts that will be responsible for its implementation.

The purpose of the Act remains the same; to bring to full effect those recent statutory enactments creating certain traffic offenses that call for civil penalties. It will continue to re-designate 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.

The specific changes brought about by enactment of this Act are as follows:

- Section 1.* Specifically provides that civil infractions are not "crimes or offenses." Because a respondent is arguably punished by a fine for an "act or omission forbidden by a statute of th[e] State" and all of the civil infractions created were formerly "crimes or offenses" this should be done expressly.
- Section 2.* Introduces a new § 236 to Title 11 that defines the parameters of a civil infraction: (1) no jail time; (2) assessment limited to \$1,150; (3) no entry in criminal or motor vehicle record unless expressly permitted by statute.
- Sections 3 - 7.* Adds original jurisdiction over civil infractions to the Justice of the Peace Court's jurisdiction and related or pendant jurisdiction over civil infractions to the jurisdiction of the Court of Common Pleas.
- Sections 8 - 10.* Introduces new provisions to Title 11 that set forth the scope of a non-traffic administrative stop of a person by a peace officer for the enforcement of civil infraction statutes and provides for summons procedure similar to current § 1907.
- Sections 11 and 12.* Make necessary changes to the motor vehicle provisions that provide the power to arrest without a warrant (21 Del. C. § 701) to ensure no person is subject to an arrest for a civil infraction only. Enables law enforcement officers, who under present law have the power to arrest for such offenses, to stop and issue summonses for the violations now deemed civil infractions.
- Section 13.* Introduces a criminal provision (11 Del. C. § 1257A) similar to resisting arrest for resisting detention for an administrative stop relating to civil infraction.
- Section 14.* Makes necessary changes to the motor vehicle provisions that regulate jurisdiction over summonses for offenses (21 Del. C. § 703) so that jurisdiction over civil traffic infractions is same as that currently set forth in the Code.
- Section 15.* Makes necessary changes to the provisions requiring reporting of motor vehicle offenses to the DMV by courts (21 Del. C. § 703A). No civil infraction will be reported to DMV nor shall points be assessed unless required by the statute defining a particular civil infraction.
- Sections 16 and 17.* Make necessary changes to the motor vehicle provisions that provide procedures for handling certain motor vehicle offenses through the voluntary assessment center (21 Del. C. § 709) to ensure that civil infractions may also be handled through the centers.
- Sections 18 and 19.* Makes necessary changes to the provisions requiring assessment of victim's compensation assessment (11 Del. C. § 9012) and videophone assessment (11 Del. C. § 4101(d)) for civil infractions that expressly require such assessments. Certain civil traffic infractions will be subject to those assessments pursuant to Chapter 8 of Title 21.
- Section 20.* Introduces a new Chapter 76 to Title 10 that sets forth the procedures for proceedings related to civil infractions. This new Chapter sets the general guidelines for the handling of such matters. The more specific procedures will be subject to appropriate court rules.
- Section 21.* Deletes the current language of the recently introduced Chapter 8 of Title 21 to permit civil traffic infractions to be handled under the procedures of new Chapter 76 of Title 10 except where specific procedures are otherwise required (e.g., red light cameras or seat belt violations).
- Sections 22 - 32, 38 - 44, 46 - 47, 49 - 59, 61 - 79.* Converts traffic offenses that are now "criminal" to civil infractions.
- Failure to report change of address (21 Del. C. § 315)
 - Notorial fee violation (21 Del. C. § 318)
 - New resident vehicle registration violation (21 Del. C. § 2102)
 - Vehicle registration and plate violations (21 Del. C. c. 21.)
 - Vehicle transfer violations (21 Del. C. c. 25, et seq.)
 - Traffic light violations (21 Del. C. § 4108)
 - Controlled-access highway violations (21 Del. C. § 4126)
 - Pedestrian on highway violations (21 Del. C. §§ 4146 & 4148)
 - Speeding violations (21 Del. C. § 4169)
 - Speed exhibitions (21 Del. C. § 4172)
 - Mischief by a motor vehicle (21 Del. C. § 4172A)
 - Careless/inattentive driving (21 Del. C. § 4176)
 - Cell phone use/school bus driver (21 Del. C. § 4176B)
 - Miscellaneous parking violations (21 Del. C. § 4180)
 - Following fire apparatus/running over fire hose (21 Del. C. § 4188)
 - Putting glass, etc., on a highway (21 Del. C. § 4189)

- Trespass by a motor vehicle or OHV (21 *Del. C.* § 4191A)
- Biking under the influence (21 *Del. C.* § 4198J)
- Child bike helmet violation (21 *Del. C.* § 4198K)
- Motorized scooter violations (21 *Del. C.* § 4198N)
- EPAMD violations (21 *Del. C.* § 4198O)
- General equipment violations (21 *Del. C.* c. 43, et seq.)
- Abandoned vehicle violations (21 *Del. C.* c. 44, et seq.)
- Seat belt provision (21 *Del. C.* § 4802(g)(2)c.)
- Child restraint violation (21 *Del. C.* § 4803)
- OHV violations (21 *Del. C.* c. 68, et seq.)
- Parking in a fire lane (21 *Del. C.* § 7001)
- Funeral procession violations (21 *Del. C.* c. 71, et seq.)
- Motor Carriers Fuel Purchase Law violations (30 *Del. C.* c. 52, et seq.)

- Sections 33 & 34.* Make necessary changes to Chapter 26 of Title 21 to ensure that all Title 21 violations are reported as required by the Uniform CDL Act.
- Section 35.* Imports certain language first introduced through HB 312 into the current red light camera law (21 *Del. C.* § 4101(d)) to provide courts more effective tools to ensure appearance for proceedings or enforce judgments.
- Section 36.* Makes necessary change to statute setting forth classification of moving offenses to include civil infractions.
- Section 37.* Makes necessary change to statute that provides for increased fines or assessments for violations within highway construction zones.
- Section 45.* Makes necessary change to statute defining aggressive driving offense (21 *Del. C.* § 4175A) to include civil infractions as underlying behavior.
- Section 48.* Introduces a new section to Title 21 that sets forth the offense of “operation of a motor vehicle causing injury.” This offense will be a “criminal” driving offense with a sentencing scheme similar to moving violations currently in Chapter 41. It will ensure that those moving violations that result in injury are treated as current “criminal” driving offenses and handled in Court of Common Pleas when charged.
- Section 60.* Makes necessary changes to general penalty provisions for moving violations under Chapters 41 and 42 (21 *Del. C.* § 4205) so as to convert all remaining general moving violations in those Chapters to civil infractions. Ensures that specific offenses with specific penalties are exempted from this general provision and that Chapter 41 and 42 offenses may be reportable to DMV and SBI and subject to points if deemed appropriate.
- Section 72.* Makes necessary changes to civil seat belt provision (21 *Del. C.* § 4802(g)(2)c.) to conform with this Act.

Lastly, the Act provides an effective date of August 1, 2007. This time will be required to design computer and record-keeping systems, train personnel as to new procedures, and draft and enact necessary court rules.