# Title 21

# Motor Vehicles

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# Part I
# General Provisions
# Chapter 1
# DEFINITIONS

## § 101 Words and phrases.

For the purposes of this title, unless the context otherwise clearly indicates:

(1) "All terrain vehicle" or "ATV" means an "off-highway vehicle" or "OHV" that is motorized and designed to travel on 4 low-pressure tires and having a seat to be straddled by the operator and handlebars for steering control. "ATV" does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law-enforcement purposes, a construction or logging vehicle used in performance of its common function, electric personal assistive mobility device or a registered aircraft.

(2) "Autocycle" means a 3-wheel vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

(3) "Axle load scale" means a scale having a platform adapted to determine the combined weight of all wheels on a single axle or of all wheels on a tandem or tri-axle of a vehicle.

(4) "Bicycle" shall include that certain class of vehicles which are exclusively human-powered by means of foot pedals, which the driver normally rides astride, which have not in excess of 3 wheels and which may be commonly known as unicycles, bicycles and tricycles. The term "bicycle" also includes a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 horsepower), whose maximum speed on a paved level surface, when powered solely by such motor while ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.

(5) "Business district" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

(6) "Camping trailer" includes any nonmotorized vehicular portable unit mounted on wheels and designed to provide temporary living quarters for recreational, camping or travel use. A "camping trailer" may be constructed with or without collapsible partial side walls that fold for towing by another vehicle and unfold in set-up mode, however, the trailer must weigh 5,000 pounds or less.

(7) "Certificate of origin" means the document, in the form prescribed by the Director of the Division of Motor Vehicles, issued in conformance with this chapter certifying the manufacturer's vehicle identification number and the motor number, when used, of the motor vehicle sold, the name of the manufacturer, the manufacturer's shipping weight, a general description of the body, if any, and the type and model.

(8) "Chauffeur" includes every person who is employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

(9) "Combination of vehicles" means any series of trucks, truck tractors, trailers or semi-trailers connected to each other by whatever means.

(10) "Commercial vehicle" means a vehicle of a type required to be registered under this title designed, used or maintained for the transportation of persons or property for hire, compensation or profit, except taxicabs.

(11) "Competition vehicle" is a vehicle that is specifically designated by its manufacturer as being intended solely for use during a special or competition event, and which is exclusively so used.

(12) "Crane" means any self-propelled vehicle to which has been permanently mounted or attached any crane, whether or not such vehicle was originally a truck, tractor or other type of motor vehicle or was designed and built as a complete crane unit; but the word "crane," as herein defined, shall not be construed to mean any truck or other vehicle equipped with or to which has been affixed any device used for the purpose of providing a means for towing other vehicles.

(13) "Dealer" includes every person engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers in this State and having an established place of business in this State.

(14) "Decal" means the self-adhesive sticker issued by the Department bearing the registration number assigned to an off-highway vehicle.

(15) "Department" means the Department of Transportation of this State acting directly or through its duly authorized officers and agents.

(16) "Electric personal assistive mobility device" (EPAMD) means a self-balancing, 2-nontandem-wheeled device designed to transport only 1 person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(17) "Electronic" or "electronically" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(18) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(19) "Essential parts" means all integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the

identity or substantially alter the appearance of the vehicle.

(20) "Express highway" means a state highway especially designed for through traffic over which owners of abutting property shall have no easement or right of direct access, light or air, by reason of the fact that such property abuts such highway.

(21) "Farm equipment" means an implement that:

b. Is designed and adapted only for lifting or carrying an implement described in paragraph (21)a. of this section.

(22) "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(23) "Foreign vehicle" includes every motor vehicle, trailer or semitrailer which is brought into this State otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this State.

(24) "Highway" means the entire width between boundary lines of every way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular travel, but does not include a road or driveway upon grounds owned by private persons, colleges, universities or other institutions.

(25) "Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of 2 or more highways which join one another at an angle, whether or not 1 such highway crosses the other.

(26) "Judgment" includes any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof or upon a cause of action on an agreement of settlement for such damages.

(27) "Jurisdiction" shall mean any state, territory or federal district of the United States or a foreign country.

(28) "License" means any license, temporary instruction permit or temporary license issued under the laws of this State pertaining to the licensing of persons to operate motor vehicles.

(29) "Local authorities" includes every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State.

(30) "Manufacturer" includes every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers or OHVs.

(31) "Metal tires" means all tires the surface of which on contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(32) "Mobile home" is a structure transportable in 1 or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or when erected on-site, is more than 400 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and air conditioning. The structure must be constructed in accordance with construction requirements promulgated by the federal Department of Housing and Urban Development (HUD).

(33) "Moped" shall mean a pedal or nonpedal bicycle having 2 tandem wheels, either of which is 10 inches or more in maximum diameter, and having an internal combustion motor characterized in that the maximum piston displacement is less than 55 cc, or an electric motor rated between 751 watts and 2,000 watts.

(34) "Motorcycle" includes every motor vehicle designed to travel on not more than 3 wheels in contact with the ground, except any such vehicle as may be included within the definition of "autocycle" or "tractor" and excepting electric personal assistive mobility device (EPAMD).

(35) "Motorized skateboard or scooter" means any device that is designed to travel on at least 2 wheels with the deck or chassis of such device open and close to the ground, that has handlebars or a hand-controlled throttle or brake, that is designed to be stood or sat upon by the operator, and that is powered by a motor that is capable of propelling the device without human propulsion. "Motorized skateboard or scooter" shall not include any automobile or device that is included within the definitions of "moped," "motorcycle," "off-highway vehicle (OHV)," any type of "tractor," "triped," "motorized wheelchair" or "electric personal assistive mobility device (EPAMD)" set forth in this section.

(36) "Motorized wheelchair" includes any self-propelled vehicle which is incapable of a speed in excess of 8 miles per hour and which is designed for, and used by, a handicapped person.

(37) "Motor vehicle" includes every vehicle, as defined in this section, which is self-propelled, except farm tractors, electric personal assistive mobility devices and OHVs.

(38) "Multiple draft weighting" means separately weighing each end or individual element of a vehicle or combination of vehicles and adding together the results obtained.

(39) "Nonresident" means every person who is not a resident of this State.

(40) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this State pertaining to the operation by the nonresident of a motor vehicle or OHV, or the use of a motor vehicle or OHV owned by the nonresident, in this State.

(41) "Off-highway vehicle" or "OHV" means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related 2-wheel vehicle, an amphibious machine, a ground effect air-cushion vehicle or

other means of transportation deriving motive power from a source other than muscle or wind. "OHV" does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law-enforcement purposes, a construction or logging vehicle used in performance of its common function, electric personal assistive mobility device or a registered aircraft. However, nothing in this chapter shall be construed to include snowmobiles.

(42) "OHV dealer" includes every person engaged in the business of buying, selling or exchanging off-highway vehicles in that portion of this State located north of the Chesapeake and Delaware Canal. Persons offering OHVs for final delivery in that portion of this State located north of the Chesapeake and Delaware Canal through direct-mail order or through a catalog-order facility, regardless of where located, are considered to be OHV dealers and subject to this chapter.

(43) "OHV operator" includes every person who is in actual physical control of an off-highway vehicle.

(44) "Operator" includes every person who is in actual physical control of a motor vehicle upon a highway, except that for the purposes of Chapter 29 of this title the term "operator" shall include a chauffeur.

(45) "Organized or special event" is any competition involving motor vehicles that is conducted under the auspices of a recognized sanctioning body or under the authority of a governmental agency having jurisdiction over the area concerned.

(46) "Overweight vehicle" means any vehicle having a gross weight, including load thereon, in excess of that permitted by law; including, but not limited to, a gross weight in excess the weight for which a valid registration has been issued.

(47) "Owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.

(48) "Park trailer" is a vehicle more than 8 body feet in width that is primarily designed to provide temporary living quarters for recreation camping or seasonal use; built on a single chassis mounted on wheels which has a gross trailer area not exceeding 400 square feet in the set-up mode and is certified by the manufacturer as complying with ANSI 119.5 standard.

(49) "Person" means any individual, partnership, corporation, joint venture or legal entity of whatever nature.

(50) "Pneumatic tires" means all tires inflated with compressed air.

(51) "Private road or driveway" includes every road or driveway not open to the use of the public for purposes of vehicular travel.

(52) "Proof of financial responsibility" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of said proof arising out of ownership, maintenance or use of a motor vehicle in the amount of $15,000 because of bodily injury to or death of 1 person in any 1 accident, and, subject to such limit for 1 person, in the amount of $30,000 because of bodily injury to or death of 2 or more persons in any 1 accident and in the amount of $10,000 because of injury to or destruction of property of others in any 1 accident, or a combined single limit of $40,000.

(53) "Reconstructed vehicle" means any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models and types, or which, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(54) "Recreational trailer" includes every trailer which weighs more than 5,000 pounds, is designed to provide temporary living quarters and which is built into and is an integral part of, or permanently attached to, a trailer chassis. The trailer must contain permanently installed independent life support systems which meet the ANSI/NFPA 501 C Standard [ANSI A119.2/NFPA 501C], and provide at least 4 of the following facilities: Cooking facilities; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a portable water supply system, including a faucet and sink; separate 110-125 volt electrical power supply; or an LP-gas supply.

(55) "Recreational vehicle" includes every motor vehicle used for temporary human living quarters, not the residence of the owner or occupant, and used for recreational or vacation activities, including motor homes, self-propelled campers and other motor vehicles with permanently attached camper components. Recreational vehicle may also include every van which is used primarily for personal pleasure and not for commercial use, regardless of the equipment or furnishings contained within such van.

(56) "Registration" means the registration certificate or certificates and registration plates issued under the laws of this State pertaining to the registration of motor vehicles.

(57) "Residence district" means the territory contiguous to and including a highway not comprising a business district where 50 percent or more of the property on such highway for a distance of 300 feet or more is improved with residences or residences and buildings in use for business.

(58) "Right-of-way" means the privilege of the immediate use of the highway.

(59) "Road tractor" includes every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.

(60) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes 2 or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(61) "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so

plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(62) "Scale" means a device used to determine or calculate weight.

(63) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events, or any vehicle which meets the regulatory requirements adopted by the Department of Education with the advice of the Division of Motor Vehicles as specified under § 2901 of Title 14. "School bus" does not include a bus used as a common carrier.

(64) "Secretary" means the Secretary of Transportation of this State or the Secretary's duly authorized designee.

(65) "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle, and piling and pole trailers are to be considered to fall within the meaning of this definition.

(66) "Single draft weighing" means weighing of the entire vehicle at 1 time by use of vehicle scales, axle load scales, wheel load weighers or any combination of these weighing devices.

(67) "Solid rubber tire" includes every tire made of rubber other than a pneumatic tire.

(68) "Special construction equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch-digging apparatus, well-boring apparatus, road construction or maintenance machinery such as asphalt spreaders, air compressors and drills, bituminous mixers, bucket loaders, tractors other than truck tractors, levelling graders, finishing machines, road rollers, scarifiers, earth-moving scrapers and carryalls, welders, power shovels and drag lines, self-propelled cranes, earth-moving equipment and construction box storage trailers (except when such trailers are used for transporting merchandise). The term does not apply to dump trucks, truck mounted transit mixers, tow trucks or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(69) "Specialized vehicle" shall mean a vehicle or motor vehicle which may be registered by the Division of Motor Vehicles, but with special restrictions as determined by the Division of Motor Vehicles.

(70) "Specially constructed vehicle" means any vehicle which has not been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

(71)a. "Special mobile equipment" means a motor vehicle that:

(1) Is not used primarily for highway transportation of people or property;

(2) Is operated or moved on a public highway or road only as an incident to its nonhighway use;

(3) Is used in agriculture;

(4) Is not operated at speeds greater than 30 miles per hour on the highway; and

(5) Does not travel a distance of greater than 50 miles on the highway on any 1 trip.

(72) "State" includes a state, territory, organized or unorganized, or district of the United States of America, except that for the purposes of Chapter 29 of this title the term "state" shall include any province of the Dominion of Canada.

(73) "Taxicab" includes every self-propelled motor vehicle as defined in § 1801(12) of Title 2.

(74) "Trackless trolley coach" includes every device for passenger transportation (commonly called an electric trackless trolley coach) equipped with tires of rubber or other resilient material, not operated on rails, propelled by electrical energy supplied through overhead wires, which device may also contain auxiliary means for self-propulsion by a motor using gasoline, oil or other similar fuel.

(75) "Trackless trolley operator" includes every person who is in actual physical control of any trackless trolley coach upon a highway.

(76) "Trailer" includes a mobile home, park trailer, travel trailer, house trailer, office trailer, camping trailer or any vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(77) "Transporter" means every person engaged in the business of delivering vehicles of a type to be registered under this title from a manufacturing, assembling and distributing plant to a point of destination or for the purpose of weighing, testing, transporting or delivering such vehicle or for the purpose of moving said vehicles in connection with making installations thereon or improvements or repairs thereto or the repossession or foreclosure thereof.

(78) "Triped" shall mean a pedal or nonpedal cycle having 3 wheels, either of which is 10 inches or more in maximum diameter, and having an internal combustion motor characterized in that the maximum piston displacement is less than 55 cc, or an electric motor rated between 751 watts and 2,000 watts.

(79) "Truck camper" includes any portable unit that is constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, which is designed to be loaded onto and unloaded from the bed of a pickup truck.

(80) "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(81) "Used vehicle" includes every motor vehicle or OHV which has been sold, bargained, exchanged, given away or title transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the manufacturer or importer and so used as to have become what is commonly known as "secondhand" within the ordinary meaning thereof.

(82) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks and excepting electric trackless trolley coaches, electric personal assistive mobility devices and excepting OHVs.

(83) "Vehicle scale" means a scale adapted to weighing highway vehicles and possessing a platform on which all wheels of a vehicle may rest simultaneously.

(84) "Well-drilling machine" means any self-propelled vehicle to which has been permanently mounted or attached any rig or other equipment used for the purpose of drilling wells, whether or not such vehicle was originally a truck, tractor or other type of motor vehicle or was designed and built as a complete well-drilling unit.

(85) "Wheel load weigher" means a scale especially adapted to determine the weight of any single or set of wheels on a vehicle.

a. Is designed and adapted only for agricultural, horticultural or livestock raising operations; or

b. "Special mobile equipment" excludes a road construction or maintenance machine, mobile crane, ditch digger, well driller, concrete mixer, job-site office vehicle or portable power generator.

(86) "When children are present" shall, when posted in conjunction with speed limitation signage in a school zone, refer to that period of time immediately before, during or immediately after a scheduled school day during which children are physically present along, adjacent to, or crossing the regulated roadway of the school zone. The phrase shall not refer to the presence of children in the school building as the time for imposition of the speed restriction.

(36 Del. Laws, c. 10 §§ 1, 85, 86; 37 Del. Laws, c. 10 § 2; Code 1935 §§ 5539, 5623, 5719ii; 41 Del. Laws, c. 220 § 1; 42 Del. Laws, c. 166 § 1; 43 Del. Laws, c. 249 § 1; 44 Del. Laws, c. 194 § 1; 45 Del. Laws, c. 281 § 1; 46 Del. Laws, c. 270 § 2; 47 Del. Laws, c. 17 § 1; 47 Del. Laws, c. 133; 47 Del. Laws, c. 406 § 2; 48 Del. Laws, c. 305 § 1; 48 Del. Laws, c. 359 § 1; 21 Del. C. 1953 § 101; 54 Del. Laws, c. 160 §§ 3, 4; 57 Del. Laws, c. 188 § 24; 57 Del. Laws, c. 670 § 5; 58 Del. Laws, c. 112 § 2; 58 Del. Laws, c. 517; 59 Del. Laws, c. 57 § 1; 60 Del. Laws, c. 701 § 6; 61 Del. Laws, c. 63 § 1; 61 Del. Laws, c. 142 §§ 1-5; 62 Del. Laws, c. 114 § 1; 62 Del. Laws, c. 150 § 1; 62 Del. Laws, c. 151 § 1; 62 Del. Laws, c. 237 § 1; 62 Del. Laws, c. 249 § 1; 62 Del. Laws, c. 389 §§ 1-3; 63 Del. Laws, c. 414 § 1; 64 Del. Laws, c. 198 § 3; 64 Del. Laws, c. 207 § 1; 64 Del. Laws, c. 259 § 1; 64 Del. Laws, c. 339 § 1; 65 Del. Laws, c. 340 § 1; 66 Del. Laws, c. 58 §§ 1, 2; 66 Del. Laws, c. 254 §§ 1, 2; 69 Del. Laws, c. 217 § 1; 69 Del. Laws, c. 454 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 234 § 1; 73 Del. Laws, c. 346 §§ 1-5; 74 Del. Laws, c. 110 §§ 7, 8, 9; 74 Del. Laws, c. 133 § 3; 74 Del. Laws, c. 282 § 1; 75 Del. Laws, c. 251 §§ 1, 2; 76 Del. Laws, c. 334 § 2; 77 Del. Laws, c. 141 § 8; 77 Del. Laws, c. 312 § 8; 77 Del. Laws, c. 411 § 1; 78 Del. Laws, c. 106 § 1; 79 Del. Laws, c. 397 §§ 1, 2; 80 Del. Laws, c. 136 § 1; 80 Del. Laws, c. 168 § 1.)

# Part I
# General Provisions
# Chapter 3
# DEPARTMENT OF PUBLIC TRANSPORTATION AND DEPARTMENT OF SAFETY AND HOMELAND SECURITY

## § 301 General duty of Departments.

The Department of Transportation and/or the Department of Safety and Homeland Security, in keeping with their respective responsibilities, and all officers thereof shall enforce this title, unless otherwise designated in this title or by other laws of this State.

(36 Del. Laws, c. 10 § 3; Code 1935 § 5541; 21 Del. C. 1953 § 302; 74 Del. Laws, c. 110 § 11.)

## § 302 Rules and regulations.

(a) The Secretary of Transportation and/or the Secretary of Safety and Homeland Security, in keeping with their respective responsibilities, may adopt and enforce such administrative rules and regulations and designate such agencies as may be necessary to carry out this title. The Secretary of Transportation and/or the Secretary of Safety and Homeland Security, in keeping with their respective responsibilities, may also adopt and enforce such rules and regulations relative to equipment, weight, size and operation of motor vehicles, provided such rules and regulations are not contrary to a positive law, as may be necessary and proper in order to conform to the rules and regulations of the Interstate Commerce Commission and in order to establish a more uniform Motor Vehicle Code and more uniform traffic rules and regulations. No rule or regulation adopted pursuant to the authority granted by this section shall extend, modify or conflict with any law of this State, or the reasonable implications thereof.

(b) Any rules, regulations, procedures or agreements enacted, authorized or entered by the Secretary of Public Safety prior to July 1, 2003, shall remain in effect until such time as these rules, regulations, procedures or agreements are replaced, terminated or amended by the appropriate departmental Secretary.

(36 Del. Laws, c. 10 § 3; Code 1935 § 5541; 43 Del. Laws, c. 243 § 1; 21 Del. C. 1953 § 305; 57 Del. Laws, c. 670 § 6D; 67 Del. Laws, c. 344 § 7; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 12, 13.)

## § 303 Forms.

The Secretary shall provide suitable forms for applications, registration cards, license number plates and all other forms required for the purposes of this title and shall prepay transportation charges thereon.

(36 Del. Laws, c. 10 § 3; Code 1935 § 5541; 43 Del. Laws, c. 243 § 1; 21 Del. C. 1953 § 306; 57 Del. Laws, c. 670 § 6D.)

## § 304 Examiners for operators' licenses; appointment; use of local officers.

(a) The examiners of applicants for operators' licenses shall be appointed by and shall be under the supervision of the Secretary.

(b) The Department may designate local officers of the law or may appoint persons within this State to act for the Department for the purpose of examining applicants for operators' licenses. Such persons so designated or appointed shall conduct the examinations of the applicants for operators' licenses in the manner prescribed by the Department under this title and shall make a written report of the findings and recommendations upon such examinations to the Department.

(36 Del. Laws, c. 10 § 60; 37 Del. Laws, c. 10 §§ 18, 19; Code 1935 § 5598; 21 Del. C. 1953 § 308; 57 Del. Laws, c. 670 § 6D; 62 Del. Laws, c. 190 § 1.)

## § 305 Privacy act governing the release of motor vehicle driving history and license records.

(a) In general. — Except as provided in subsections (b), (d), (e) and (i) of this section, the Division of Motor Vehicles and any officer, employee or contractor thereof or any other person shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the Division in connection with a motor vehicle record. Only driver license and driver performance records which are 3 years old or less shall be made available to authorized persons or agencies, except persons requesting their own records, law-enforcement officers, the courts and other motor vehicle jurisdictions may also have access to those records and to vehicle title and registration information which are over 3 years old and are being retained by the Division. Division motor vehicle records can be transmitted to other motor vehicle jurisdictions electronically over authorized networks.

(b) Permissible uses. — Personal information referred to in subsection (a) of this section shall only be disclosed for use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls or advisories; performance monitoring of motor vehicles, motor vehicle parts and motor vehicle dealers by motor vehicle manufacturers; maintenance of voter registration records; and removal of nonowner records from the original owner records of motor vehicle manufacturers; maintenance of voter registration records to carry out the purposes of the Automobile Information Disclosure Act [15 U.S.C. § 1231 et seq.], the Motor Vehicle Information and Cost Saving Act [repealed], the National Traffic and Motor Vehicle Safety Act of 1966 [repealed], the Anti-Car Theft [Act] of 1992 [P.L. 102-519] and the Clean Air Act [42 U.S.C. § 7401 et seq.]. Personal information may be disclosed only upon proof of the identity of the person requesting the record or records and sworn representation by such person that the released personal

information will be strictly limited to 1 or more of the following described uses:

(1) For use by any government agency, including any court, state election agency or law-enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency, in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls or advisories; performance monitoring of motor vehicles, motor vehicle parts and motor vehicle dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees or contractors, but only:

a. To verify the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and

b. If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest against the individual.

(4) For use in connection with any civil, criminal, administrative or arbitration proceeding in any federal, state or local court or agency or before any self-regulating body, including the service of process, investigation in anticipation of litigation and the execution or enforcement of judgments and orders or pursuant to an order of a federal, state or local court.

(5) For use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals.

(6) For use by any insurer or insurance support organization or by a self-insured entity or its agents, employees or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting.

(7) For use in providing notice to the owners or lien holders of towed or impounded vehicles.

(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. § 31101 et seq.).

(10) For use in connection with the operation of private toll transportation facilities.

(11) Persons requesting their own records, law-enforcement officers, judicial and other motor vehicle jurisdictions through the supporting information networks may have access to all records retained by the Division.

(12) [Deleted.]

(13) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

(c) Requests for additional protection of personal information. — A person may submit a notarized affidavit to be supplied by the Division requesting that person's address, phone number and social security number contained in the driver or vehicle records of the Division be kept confidential except from those named in paragraphs (b)(1), (2) and (6) of this section. The affidavit must swear or affirm that the request is being made because of the person's fear of harm from another individual to themselves, a family or household member or their property. A properly submitted notarized affidavit satisfying these conditions shall be honored by the Division and shall remain in effect until the record is purged from the Division's files or until the requesting person submits written notice requesting the release of that person's personal information. This section does not prohibit the Division from the normal practice of returning a vehicle title with personal information displayed to a lienholder or lessor. In addition, the Division may return a vehicle title and registration card to a dealership who has submitted the title application for their customer.

(d) Court approval for release of information. — Persons or agencies other than those named in subsections (b) and (c) of this section shall be prohibited from acquiring any information pertaining to an individual's address, telephone number, vehicle title, vehicle registration, driver license and driver performance that is in the possession of the Division of Motor Vehicles except in the following case:

Any individual who can show that there is a lawful need for the prohibited information and that the information cannot be reasonably acquired through any alternate means may present such evidence to the administrative hearing officer of the Division of Motor Vehicles. Upon consideration of the evidence presented, the administrative hearing officer may then in the administrative hearing officer's discretion provide an order for the release of part or all of the requested information from the Division of Motor Vehicles to the requesting individual.

In this instance, the Division shall send by United States mail notification to any individuals identified in subsection (c) of this section whose information has been requested that the administrative hearing officer has ordered the release of such information and that such information will be furnished to the requesting party. Upon denial of the request, the individual may file a de novo appeal to the Justice of the Peace Courts. Upon receipt of the application fee of $10 from the individual, the Justice of the Peace Court, in its discretion, may order the release of part or all of the requested information by the DMV to the requesting individual. The Division shall notify the individuals by United States mail if the Justice of the Peace Court orders release of part or all of the requested information.

(e) Disclosure with consent. — Personal information may be disclosed to any person requesting such information if such person demonstrates, in such form and manner as the Department prescribes, that the person has obtained a notarized, written consent from the person whose information is protected. Such consent must be provided each time personal information is released. Each written consent form shall be retained by the Division in electronically digitized, microfilm or paper format for a minimum period of 5 years.

(f)(1) Fees for copies and information. — The Secretary shall charge a fee of $25 for each motor vehicle record supplied to persons other

than those governmental agencies designated in paragraph (b)(1) of this section. If special handling is needed to certify a record or notarize an affidavit, the fee for such handling shall be $30 to include the requested record.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, the Director of the Division of Motor Vehicles is authorized to enter into contractual agreements for the bulk sale of vehicle records for uses that are permissible under this section. These contracts may include pricing models that are based on the Division's cost to produce, maintain and distribute such records. Purchases of motor vehicle driving history and license records pursuant to the provision of this section shall be governed exclusively by the conditions of paragraph (f)(1) of this section.

(g) Signature on all records released. — Any record or certified record supplied by the Department pursuant to this title shall contain the signature or facsimile signature of the Director of the Division of Motor Vehicles or of another official of the Division who is a custodian of such records and is designated by the Director to sign or to have a facsimile signature affixed. For purposes of this subsection, a "facsimile signature" can be a preprinted signature, a rubber-stamped signature or any other recognized facsimile.

(h) Contract to protect confidentiality. — Governmental agencies, businesses and individuals designated by subsection (b) of this section to obtain vehicle registration, title, driver's license or driver performance records and obtain such personal information by electronic means will sign contracts acknowledging their responsibility to protect personal information as follows:

(1) The personal information obtained from the Division's records will not be resold or redisclosed in part or whole except for those authorized purposes covered in subsection (b) of this section.

(2) [Deleted.]

(i) Additional conditions. — In addition to provision for payment of applicable fees, the Department may, prior to the disclosure of personal information as permitted in this section, require the meeting of certain conditions by the requesting person for the purpose of obtaining reasonable assurance concerning the identity of the person requesting the release of information and, to the extent required, that the use will be only as authorized or the consent of the person who is the subject of the information has been properly obtained. Such conditions may include, but need not be limited to, the making and filing of a written application in such form and containing such information and certification requirements as the Department may prescribe.

Governmental agencies, businesses and individuals who request motor vehicle records by electronic means or who access Division records on a continual basis and are authorized access to the records per subsections (b) through (e) of this section, inclusively, shall sign contracts acknowledging their responsibility to protect personal information under this subsection. The contract will contain this section and the requester will specify, at a minimum:

(1) The legal basis authorizing access to personal data contained in the Division's records;

(2) Purposes and intended uses for this data;

(3) Designation of data elements needed to satisfy their purposes;

(4) Agreement not to disclose the information obtained unless permitted by this subsection; and

(5) Other requirements as deemed necessary by the Division.

Law enforcement, the courts, other motor vehicle jurisdictions and those governmental agencies and businesses designated by the Secretary of Transportation are exempt from this subsection.

A person's driver's license electronically digitized photograph and signature, Social Security number or medical or disability information shall not be releasable without the express written consent of the person to whom such information pertains, except for uses permitted under paragraph (b)(1), (b)(6) or (b)(9) of this section. A signed release from the licensee whose information is sought shall constitute a permitted use if notarized. This subsection shall not in any way affect the use of organ donor information on an individual driver's license or affect the administration of organ donor initiatives by the Division.

Personal information shall not be available by telephone or other methods of request other than by personal appearance and in writing unless approved by the Director of Motor Vehicles or the Director's designee.

The Division, in its discretion, may deny access to any or all records if it finds the requesting agency's or person's purpose in requesting such information is improper or that the request was made in bad faith.

The Division will record, but can deny the release of residential addresses to any agency, business or person outside of the Division when requested by the court or when law-enforcement documentation proves the person is in immediate danger if this information is released. The record will contain a releasable mailing address to enable the Division and law-enforcement agencies to contact that individual.

The Director may destroy any records of the Division which have been maintained on file for 3 years, unless otherwise required by this title, which the Director may deem obsolete and of no further service in carrying out the powers and duties of the Division; provided, that the Director of the Division of Historical and Cultural Affairs has authorized such destruction.

Any record or certified record supplied by the Department pursuant to this title shall contain the signature or facsimile signature of the Director or of another official of the Division who is a custodian of such records and is designated by the Director to sign such records or have his or her signature affixed. For purposes of this subsection, a "facsimile signature" can be a preprinted signature, a rubber stamped signature or any other recognized facsimile.

(j) Wrongful disclosure. — If the Division discovers at any time that any information protected under subsection (c) of this section has been wrongfully disclosed, it shall notify the holder of that information that the information was wrongfully disclosed and may not be used, resold or redisclosed in any way. The Division shall also inform the person who the information pertains to that the person's personal

information was disclosed.

(k) Resale or redisclosure. —

(1) An authorized recipient of personal information may resell or redisclose the information for any use permitted under subsection (b) of this section.

(2) [Deleted.]

(3) Any authorized recipient who resells or rediscloses personal information shall be required by the Department to maintain, for a period of not less than 5 years, records as to the information obtained and the permitted use for which the information was obtained and to make such records available for inspection by the Department, upon request.

(l) Regulations and waiver procedure. — The Department is authorized to adopt administrative regulations to carry out the purposes of this section. The regulations may include procedures under which the Department, upon receiving a request for personal information that is not subject to disclosure, may mail a copy of such request to each individual who is the subject of the information, informing such individual of the request, together with a statement to the effect that disclosure is prohibited and will not be made unless the individual affirmatively elects to waive such individual's right to privacy under this section.

(m) Unlawful acts. —

(1) Procurement for unlawful purposes. — It shall be unlawful for any person knowingly to obtain or disclose personal information from a motor vehicle record for any use not permitted under this title.

(2) False representation. — It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

(n) Penalties. — Any person requesting the disclosure of personal information from Department records who misrepresents the person's identity or knowingly makes a false statement to the Department in order to obtain restricted information or who knowingly violates any other provision of this chapter shall be guilty of a class A misdemeanor.

(o) Civil actions. —

(1) Cause of action. — A person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains.

(2) Remedies. — The court may award:

a. Actual damages, but not less than liquidated damages in the amount of $2,500;

b. Punitive damages upon proof of wilful or reckless disregard of the law;

c. Reasonable attorney's fees and other litigation costs reasonably incurred; and

d. Such other preliminary and equitable relief as the court determines to be appropriate.

(p) Definitions. — In this chapter:

(1) "Motor vehicle record" means any record that pertains to a motor vehicle operator's or driver's permit or license, motor vehicle title, motor vehicle registration or identification document issued by a Division of Motor Vehicles or other state or local agency authorized to issue any such forms or credentials;

(2) "Person" means an individual, organization or entity, but does not include a state or agency thereof; and

(3) "Personal information" means information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, address, telephone number and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations and driver's license or registration status.

(36 Del. Laws, c. 10 § 5; Code 1935 § 5543; 21 Del. C. 1953 § 310; 55 Del. Laws, c. 339; 57 Del. Laws, c. 670 §§ 6D, 6E; 58 Del. Laws, c. 366; 58 Del. Laws, c. 377; 60 Del. Laws, c. 469 § 1; 65 Del. Laws, c. 81 §§ 1-3; 66 Del. Laws, c. 82 § 1; 68 Del. Laws, c. 170 §§ 1-4; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 511 § 1; 72 Del. Laws, c. 479 §§ 1-4; 74 Del. Laws, c. 110 §§ 14, 15; 74 Del. Laws, c. 308 § 129; 75 Del. Laws, c. 4 § 10; 78 Del. Laws, c. 131 §§ 1, 2; 80 Del. Laws, c. 77 § 16.)

## § 306 [Reserved]

## § 307 Deposits and disbursements.

(a) All moneys received by the Division of Motor Vehicles under this title and Title 30 shall be deposited daily to the credit of the Transportation Trust Fund.

(b) Those funds directed to be received by the Department of Safety and Homeland Security pursuant to § 309 or § 706 of this title shall be deposited daily to the credit of the State's General Fund.

(c) Except as may be otherwise provided in § 309 or § 706 of this title, no action or claim that is otherwise permitted against the State or an agency or authority of the State to recover any moneys that are erroneously or illegally collected by or paid to the Departments of Transportation and Safety and Homeland Security under this title, may be commenced or otherwise asserted after expiration of 1 year from the earlier of:

(1) The date of the payment; or

(2) The date the payment was required to be made.

(36 Del. Laws, c. 10 § 147; Code 1935 § 5686; 42 Del. Laws, c. 77 §§ 1, 2; 21 Del. C. 1953 § 312; 67 Del. Laws, c. 46 § 55; 67 Del. Laws, c. 285 § 56(a); 68 Del. Laws, c. 156 §§ 54, 55(e); 74 Del. Laws, c. 110 §§ 16, 17.)

## § 308 Contingent fund for refund of renewal registration fees.

The Department shall retain out of the revenue collected by it a sum sufficient to provide at all times a contingent fund of $1,000, out of which it shall pay any refunds for renewal registration fees provided for in Chapter 21 of this title. Such funds shall be deposited in the financial institution which is the legal depository of the state moneys and shall be disbursable on order of the Secretary.

(36 Del. Laws, c. 10 § 26; 38 Del. Laws, c. 27 §§ 1, 2; 40 Del. Laws, c. 38 § 1; Code 1935 §§ 5564, 5719q; 45 Del. Laws, c. 287 § 2; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 313.)

## § 309 Sale of motor vehicle in possession of Secretary of Safety and Homeland Security.

(a) Whenever the owner or person entitled to the possession of any motor vehicle, or part thereof, in the custody of the Secretary of Safety and Homeland Security (hereinafter "Secretary") cannot be located and fails to claim the motor vehicle, or part thereof, for a period of 3 months after the motor vehicle, or part thereof, came into the custody of the Secretary, the motor vehicle may be disposed of by the Secretary at public sale at some place which is convenient and accessible to the public at any time between the hours of 10:00 a.m. and 6:00 p.m.

(b) The time, place and terms of the sale, together with a full detailed description of the motor vehicle, or part thereof, shall be inserted in 1 or more newspapers published in the city or county where the sale is to take place at least once each week for 2 successive weeks prior to the sale. A registered notice shall be mailed at least 10 days prior to the sale to the owner, lienholder, if any, shown on the records of the Secretary of Safety and Homeland Security or person entitled to the possession of the motor vehicle, or part thereof, if such person's address be known, or if it can be ascertained by the exercise of reasonable diligence. If the address cannot be ascertained by the exercise of reasonable diligence, then such notice shall not be required to be given.

(c) Any excess in the amount of the selling price of the motor vehicle, or part thereof, at the sale, over and above the expenses thereof, and the amount of the storage and repair charges incurred by the Secretary of Safety and Homeland Security (hereinafter "Secretary") during the period in which the motor vehicle, or part thereof, was in the Secretary's custody, and after the payment of all liens to which the motor vehicle, or part thereof, may be subject, in order of their priority, shall be accounted for and deposited by the Secretary to the credit of the State Treasurer as other receipts of the Department. If the owner or person entitled to the possession of the motor vehicle, or part thereof, presents to the Secretary a claim for such excess at any time within 1 year from the date of the sale, the Secretary shall draw a warrant upon the State Treasurer for such excess and such excess shall thereupon be paid over by the State Treasurer to the owner or person entitled to the possession of the motor vehicle, or part thereof.

(36 Del. Laws, c. 10 § 147A; 37 Del. Laws, c. 10 § 36; Code 1935 § 5687; 21 Del. C. 1953 § 314; 57 Del. Laws, c. 670 § 6D; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 18-21.)

## § 310 Notice to Secretary of Safety and Homeland Security of motor vehicles in possession of imprisoned persons.

Where a person is committed to prison in default of paying a fine for a violation of this title or any other law of this State and such person was in possession of a motor vehicle at the time of such person's arrest, the arresting officer and the clerk of the court or the justice of the peace who made the commitment shall immediately notify the Secretary of Safety and Homeland Security and Secretary of Transportation of the make of the car, the engine and serial numbers and the license number.

(41 Del. Laws, c. 221 § 1; 21 Del. C. 1953 § 315; 57 Del. Laws, c. 670 § 6D; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 22, 23.)

## § 311 Notice to Secretary of Safety and Homeland Security of motor vehicles stored and unmoved for 30 days.

All persons who are engaged in the business of storing of automobiles shall notify the Secretary of Safety and Homeland Security of the make, engine and serial numbers and license number of all motor vehicles stored and unmoved in any public garage for a period more than 30 days.

(41 Del. Laws, c. 221 § 1; 21 Del. C. 1953 § 316; 57 Del. Laws, c. 670 § 6D; 74 Del. Laws, c. 110 §§ 24, 25.)

## § 312 Report of stolen or recovered motor vehicles; index.

(a) Every sheriff and every police commissioner and chief of police or peace officer of every jurisdiction, upon receiving information that a motor vehicle has been stolen or that a motor vehicle having been stolen has been recovered, shall immediately report such information upon the appropriate official form to the Department of Safety and Homeland Security.

(b) The Department of Safety and Homeland Security shall file all such reports of stolen or recovered motor vehicles and appropriately index the same and shall also file similar reports received from other states.

(36 Del. Laws, c. 10 § 43; Code 1935 § 5581; 21 Del. C. 1953 § 317; 62 Del. Laws, c. 190 § 3; 74 Del. Laws, c. 110 §§ 26, 27.)

## § 313 Accident statistics and reports; evidence.

(a) The Department of Safety and Homeland Security shall prepare and may supply to police and sheriff's offices and other suitable agencies forms for accident reports calling for sufficiently detailed information to disclose with reference to a highway accident the cause, conditions then existing and the persons and vehicles involved.

(b) The Department of Safety and Homeland Security shall receive accident reports required to be made by law and shall tabulate and analyze such reports and publish annually or at more frequent intervals statistical information based thereon as to the number, cause and

location of highway accidents. Such reports shall be without prejudice, shall be for the information of the Department of Safety and Homeland Security and shall not be open to public inspection. The fact that such reports have been so made shall be admissible in evidence solely to prove a compliance with this section but no such report or any part thereof or statement contained therein shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accident.

(36 Del. Laws, c. 10 § 109; Code 1935 § 5647; 21 Del. C. 1953 § 318; 57 Del. Laws, c. 670 § 6C; 74 Del. Laws, c. 110 §§ 28, 29.)

## § 314 Uncollectible fees; penalties.

(a) Whenever any payment given to the Department in payment of any fee or for any other purpose is returned to the Department as uncollectible, the Secretary shall charge the person presenting such payment, in addition to the protest fee, a reasonable fee, not to exceed $25, to cover the cost of its collection. The Department shall notify the individual presenting such payment by certified mail sent to the last known address of the individual that such payment has been returned as uncollectible and allow the individual 10 days to furnish payment.

(b) If payment is not received within 10 days following the date of mailing such certified mail, the Department shall forthwith suspend the individual's driver's license or vehicle registration obtained by means of the uncollectible payment until payment and a penalty fee in the amount of $25 has been paid in full. If the uncollectible payment was issued for a registration of a motor vehicle or vehicle, the driver's license of the owner of such motor vehicle or vehicle shall also be suspended.

(37 Del. Laws, c. 10 § 23; Code 1935 § 5618; 21 Del. C. 1953 § 319; 57 Del. Laws, c. 670 § 6D; 58 Del. Laws, c. 580; 60 Del. Laws, c. 606 § 1; 65 Del. Laws, c. 178 § 1; 68 Del. Laws, c. 396 § 1; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 332.)

## § 315 Failure to report change of address; penalty.

Whoever, holding an operator's license issued to such person under the laws of this State or having a motor vehicle or tractor registered in such person's name under the laws of this State, fails or neglects within 1 month after any change of such person's address to notify the Department of any such change of address shall be fined, for the first offense, not less than $10 nor more than $50. For each subsequent like offense, such person shall be fined not less than $50 nor more than $100.

(36 Del. Laws, c. 10 §§ 141, 145; 40 Del. Laws, c. 38 § 4; Code 1935 §§ 5679, 5683; 45 Del. Laws, c. 292 § 2; 48 Del. Laws, c. 195; 21 Del. C. 1953 § 320; 65 Del. Laws, c. 77 § 10; 65 Del. Laws, c. 503 § 1; 70 Del. Laws, c. 186 § 1.)

## § 316 Exceptions from application of certain provisions of this title.

Every motor vehicle, trailer, semitrailer and pole trailer when driven or moved upon a highway shall be subject to this title with respect to registration, certificate of title and inspection except:

(1) Any such vehicle driven or moved upon a highway in conformance with this title relating to manufacturers, transporters, dealers or nonresidents or under a temporary registration permit issued by the Department as hereinafter authorized;

(2) Any vehicle used or intended to be used solely upon private property which must cross or use the public highway only incidentally in order to gain access from one portion of such property to another. This paragraph shall not apply to mobile homes or house trailers.

(3) Any vehicle owned by the government of the United States and plainly marked to indicate such ownership and identify the particular vehicle, unless said vehicle is under lease with a right of purchase in the lessee.

(36 Del. Laws, c. 10 § 7; Code 1935 § 5545; 43 Del. Laws, c. 244 § 1; 48 Del. Laws, c. 244; 21 Del. C. 1953 § 321; 64 Del. Laws, c. 466 § 4.)

## § 317 [Reserved]

## § 318 Notarial fees; penalty.

(a) Notaries' public fees for administering and certifying, under hand and notarial seal, the necessary oaths or affirmations to an applicant for the registration and titling of a motor vehicle and the necessary operator's license shall not exceed 50 cents for the first certification and 25 cents for each additional certification.

(b) Any notary public charging, demanding or receiving a greater fee for the service herein specified shall be fined not more than $200 or imprisoned not more than 6 months in the discretion of the court.

(33 Del. Laws, c. 65; Code 1935 §§ 1145, 5595, 5719t; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 323.)

# Part I
# General Provisions
# Chapter 4
# RECIPROCAL AGREEMENTS
## Subchapter I
## General Provisions

### § 401 Power of Secretary to make agreements with other states; general character; conditions.

(a) The Secretary of Transportation may enter into an agreement or arrangement with the duly authorized representatives of another jurisdiction, granting to vehicles or to owners of vehicles which are properly registered or licensed in such jurisdiction and for which evidence of compliance is supplied benefits, privileges and exemptions from the payment, wholly or partially, of any taxes, fees or other charges imposed upon such vehicles or owners with respect to the operation or ownership of such vehicles under the laws of this State. Such an agreement or arrangement shall provide that vehicles properly registered or licensed in this State when operated upon highways of such other jurisdiction shall receive exemptions, benefits and privileges of a similar kind or to a similar degree as are extended to vehicles properly registered or licensed in such jurisdiction when operated in this State. Each such agreement or arrangement shall, in the judgment of the Secretary of Transportation, be in the best interest of this State and the citizens thereof and shall be fair and equitable to this State and the citizens thereof and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this State from the uninterrupted flow of commerce.

(b) The Secretary of Transportation may enter into an agreement or arrangement with the duly authorized representatives of another jurisdiction, granting to licensed drivers who are properly licensed in such jurisdictions and for which evidence of compliance is supplied benefits, privileges and exemptions of a similar kind or to a similar degree as are extended to drivers properly licensed in this State.

Each such agreement or arrangement shall, in the judgment of the Secretary of Transportation, be in the best interest of this State and the citizens thereof and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this State from the uninterrupted flow of commerce.

(21 Del. C. 1953 § 402; 49 Del. Laws, c. 424; 54 Del. Laws, c. 274; 57 Del. Laws, c. 670 § 23B; 60 Del. Laws, c. 451 §§ 1, 2; 74 Del. Laws, c. 110 §§ 30, 31.)

### § 402 Equalizing fee on vehicles registered to nonresidents.

(a) Except as otherwise provided by reciprocity agreement or other arrangement entered into by the Secretary or by a declaration issued by the Secretary, no motor vehicle or trailer or semitrailer registered in another jurisdiction which requires the payment of a registration fee or fees or taxes of any other nature from an owner of a similar vehicle properly registered in this State for the operation of such vehicle on the highways of such other State shall be operated on the highways of this State unless a fee is paid to the Department, equal in amount to the fee or tax collected by the authorized official or public agency of such other jurisdiction for the operation on its highways of the motor vehicle, trailer or semitrailer properly registered in this State. In the event that the fee or tax collected by such other jurisdiction is imposed for the registration of the vehicle therein, then in no case shall the fee paid to the Department be less than the amount now or hereafter provided for by the laws of this State for the registration of a similar vehicle.

(b) The Secretary shall from time to time promulgate such regulations as may be necessary for the effective enforcement of this section.

(21 Del. C. 1953 § 403; 49 Del. Laws, c. 424; 54 Del. Laws, c. 274; 57 Del. Laws, c. 670 §§ 23B, 23C; 64 Del. Laws, c. 339 § 2; 70 Del. Laws, c. 186 § 1.)

### § 403 Base state registration reciprocity.

An agreement or arrangement entered into or a declaration issued under the authority of § 401 of this title may authorize the registration or licensing in another jurisdiction of vehicles located in or operated from a base in such other jurisdiction which vehicles otherwise would be required to be registered or licensed in this State, and in such event the exemptions, benefits and privileges extended by such agreement, arrangement or declaration shall apply to such vehicles, when properly licensed or registered in such base jurisdiction.

(21 Del. C. 1953 § 404; 49 Del. Laws, c. 424; 54 Del. Laws, c. 274.)

### § 404 Declarations of extent of reciprocity; when.

In the absence of an agreement or arrangement with another jurisdiction, the Secretary of Transportation may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits and privileges to be extended to vehicles properly registered or licensed or licensed drivers in such other jurisdiction, or to the owners of such vehicles, which shall, in the judgment of the Secretary of Transportation, be in the best interest of this State and the citizens thereof and which shall be fair and equitable to this State and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this State from the uninterrupted flow of commerce.

(21 Del. C. 1953 § 405; 49 Del. Laws, c. 424; 54 Del. Laws, c. 274; 57 Del. Laws, c. 670 §§ 23A, 23D; 60 Del. Laws, c. 451 § 3; 74 Del. Laws, c. 110 § 32.)

### § 405 Extension of reciprocal privileges to lessees authorized.

An agreement or arrangement entered into or a declaration issued under the authority of § 401 of this title may contain provisions under which a leased vehicle properly registered by the lessor thereof may be entitled, subject to terms and conditions stated therein, to the exemptions, benefits and privileges extended by such agreement, arrangement or declaration.

(21 Del. C. 1953 § 406; 54 Del. Laws, c. 274.)

### § 406 Automatic reciprocity; when.

If no agreement, arrangement or declaration is in effect with respect to another jurisdiction as authorized by § 401 of this title, any vehicle properly registered or licensed in such other jurisdiction, and for which evidence of compliance is supplied, shall receive, when operated in this State, the same exemptions, benefits and privileges granted by such other jurisdiction to vehicles properly registered in this State. Reciprocity extended under this section shall apply to commercial vehicles only when engaged exclusively in interstate operations.

(21 Del. C. 1953 § 407; 54 Del. Laws, c. 274.)

### § 407 Suspension of reciprocity benefits.

Agreements, arrangements or declarations made under the authority of § 401 of this title may include provisions authorizing the Secretary of Transportation to suspend or cancel the exemptions, benefits or privileges granted thereunder to a vehicle or a driver which is in violation of any of the conditions or terms of such agreements, arrangements or declarations.

(21 Del. C. 1953 § 408; 54 Del. Laws, c. 274; 57 Del. Laws, c. 670 § 23D; 60 Del. Laws, c. 451 § 4; 74 Del. Laws, c. 110 § 33.)

### § 408 Agreements to be written, filed and available for distribution.

All agreements, arrangements or declarations or amendments thereto shall be in writing and shall be filed in the office of the Secretary of Transportation. Copies thereof shall be made available by the Secretary of Transportation upon request and upon payment of a fee therefor in an amount necessary to defray the costs of reproduction thereof.

(21 Del. C. 1953 § 409; 54 Del. Laws, c. 274; 57 Del. Laws, c. 670 § 23E; 74 Del. Laws, c. 110 § 34.)

### § 409 Reciprocity agreements in effect on May 5, 1964.

All reciprocity registration or driver agreements, arrangements and declarations relating to vehicles or drivers in force and effect on May 5, 1964, shall continue in force and effect until specifically amended or revoked as provided by law or by such agreements or arrangements.

(21 Del. C. 1953 § 410; 54 Del. Laws, c. 274; 60 Del. Laws, c. 451 §§ 5, 6.)

### § 410 Protection of State's income.

The Secretary of Transportation shall enter into no agreement, etc., that shall result in a serious or appreciable reduction of income to the State.

(21 Del. C. 1953 § 411; 54 Del. Laws, c. 274; 57 Del. Laws, c. 670 § 23D; 74 Del. Laws, c. 110 § 35.)

## Subchapter II

## International Registration Plan

### § 420 General authority.

(a) If any jurisdiction permits or requires the licensing of fleets of vehicles in interstate or combined interstate and intrastate commerce and the payment of registration, license or other fixed fees on an apportionment basis commensurate with and determined by the miles traveled on highways in that jurisdiction, as compared with the miles traveled on highways in other jurisdictions, or on any other equitable basis of apportionment, and if that jurisdiction exempts vehicles registered in other jurisdictions under that apportionment basis from the requirements of full payment of its own registration, license or other fixed fees, the Secretary of the Department of Transportation by agreement may adopt the exemption as to vehicles of those fleets, whether owned by residents or nonresidents of this State and regardless of where the vehicles are based.

(b) Under the terms, conditions or restrictions that the Secretary of the Department of Transportation consider proper, these agreements may provide:

(1) That owners of vehicles operated in interstate or combined interstate and intrastate commerce in this State may pay registration, license, or other fixed fees on an apportionment basis commensurate with and determined by the miles traveled on highways in this State, as compared with the miles traveled on highways in other jurisdictions or on any other equitable basis of apportionment; or

(2)a. For issuance of trip permit registration; and

b. For collection of a fee for any vehicle or combination of vehicles which may be lawfully operated in the jurisdiction if full registration or proportional registration were obtained.

(c) The registration of fleet vehicles under this section is subject to the rights, terms and conditions granted by or contained in any

applicable agreement, arrangement or declaration made by the Secretary of the Department of Transportation.

(d) If the departments enter into any agreement under the authority of this section, and the provisions set forth in the agreement are in conflict with any other rules or regulations by the departments, the agreement's provisions shall prevail notwithstanding.

(68 Del. Laws, c. 156 § 52; 74 Del. Laws, c. 110 §§ 36-38.)

### § 421 Base state registration.

An agreement, arrangement or declaration made under this subchapter may authorize the registration or licensing in another jurisdiction of vehicles that are located in or operated from a base in that jurisdiction and that otherwise would be required to be registered or licensed in this State. In this event, the benefits, privileges and exemptions extended by the agreement, arrangement or declaration shall apply to those vehicles, if licensed or registered in the base jurisdiction.

(68 Del. Laws, c. 156 § 52.)

## Subchapter III

## Toll Interoperability

### § 422 Authority to enter in reciprocity agreements with toll agencies and motor vehicle agencies for toll interoperability and collection of tolls and penalties.

The Secretary may enter into reciprocal agreements with duly authorized representatives of other agencies, authorities or jurisdictions, including without limitation entities operating pursuant to compacts authorized by Acts of the Congress of the United States, that impose tolls, charges, and related penalties on motor vehicles, in accordance with this subchapter for the purpose of toll interoperability and the collection of tolls, penalties and charges in connection therewith. For purposes of this subchapter, such agencies, authorities and jurisdictions shall be referred as "away agencies."

(79 Del. Laws, c. 33 § 1.)

### § 423 Minimum provisions for reciprocity agreements.

When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State either owes a toll(s) or failed to pay a toll, the Department may collect the civil penalties and tolls properly imposed by the away agency as though those penalties and tolls were imposed by the Department if the reciprocity agreement confirms that:

(1) The away agency has its own effective reciprocal procedures for collecting penalties and tolls collected by the Department and does, in fact, reciprocate in collecting penalties and tolls of the Department by employing sanctions that include denial of a person's right to register or reregister a motor vehicle;

(2) The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken, or unjustified claim will be pursued against an owner;

(3) An owner of a motor vehicle registered in Delaware may present evidence to the away agency by mail, telephone, electronic means, or other means to invoke rights of due process, without having to appear personally in the jurisdiction where the violation is alleged to have occurred; and

(4) The reciprocal collection agreement between the Department and the away agency provides that each party may charge the other a fee sufficient to cover the costs of the collection services, including costs incurred by the agency that registers motor vehicles.

(79 Del. Laws, c. 33 § 1.)

# Part I
# General Provisions
# Chapter 5
# MARKING OF HIGHWAYS AND ERECTION OF TRAFFIC SIGNALS AND OTHER SIGNS

## § 501 Erection of signs by local authorities; signs necessary to enforce local regulations.

Local authorities in their respective jurisdictions may erect and maintain signs designating residence and business districts, highways and steam or interurban railway grade crossings and such other signs as may be deemed necessary to carry out this title and such additional signs as may be appropriate to give notice of local parking and other special regulations. Local parking and other special regulations shall not be enforceable against an alleged violation if, at the time and place of the alleged violation, an appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

(36 Del. Laws, c. 10 § 137; Code 1935 § 5674; 21 Del. C. 1953 § 502.)

## § 502 Signs on private property.

The Department of Transportation may erect and maintain all appropriate signals, lights or any other type of sign on private property over which the Department of Safety and Homeland Security has assumed jurisdiction. Nothing in this section shall be construed to prohibit the erection and maintenance of signs and signals by the private owners of the real property, so long as such signs and signals are for the safety and convenience of the public and are approved by the Department of Transportation.

(21 Del. C. 1953 § 503; 58 Del. Laws, c. 515 § 2; 60 Del. Laws, c. 503 § 23; 74 Del. Laws, c. 110 § 138.)

## §§ 503 -506. [Reserved.]

# Part I
# General Provisions
# Chapter 7
# ENFORCEMENT; ARREST, BAIL AND APPEAL

## § 701 Arrest without warrant for motor vehicle violations.

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

(1) For violations of this title committed in their presence; or

(2) For violations of § 4169 of this title, relating to speed violations, when the speed is determined by radar, electronic devices, electromechanical devices, audio sensor devices, visual sensor devices or aerial spotting, even though the officer making the arrest did not actually observe the radar speed meter or observe the violation from the aircraft, provided such arresting officer is in a position to observe the vehicle being detected and provided that the officer is working in conjunction with the reading or observing officer and is immediately advised of the violation and that the vehicle being apprehended is the vehicle detected; or

(3) For violations of § 4108(a)(3) of this title relating to red traffic lights, 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; or

(4) For violations of § 4176C(a) of this title relating to electronic communication devices, 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; or

(5) For violations of § 4802(a)(1) or (2) or § 4803 of this title relating to seat belts, 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 police 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 has been committed by any person then and there present, to arrest such person without a warrant of arrest.

(c) Any arrests for violations of § 4168 or § 4169 of this title or any local ordinance equivalent thereof by a municipal, town or city police department within its jurisdiction as defined by its charter on a state highway shall occur only if:

(1) A "reduced speed ahead" sign is posted at a sufficient distance as determined by the Department of Transportation prior to the start of the speed zone being enforced if the speed limit enforced is less than 55 miles per hour or a "speed limit 55" (or 65, as appropriate) "strictly enforced" sign is posted at a sufficient distance as determined by the Department of Transportation prior to the start of the speed zone being enforced;

(2) A speed limit sign with the limit is posted at the start of the speed zone;

(3) A yellow "strictly enforced" sign is posted below the speed limit sign;

(4) An "entering corporate limits of _____ " sign, with the name of the city, town or municipality inserted on the sign, is posted at the corporate limits;

(5) A "leaving corporate limits of _____ " sign, with the name of the city, town or municipality inserted on the sign, is posted at the end of the corporate limits; and

(6) Any signs required under this subsection shall be installed by the Department of Transportation, with the costs borne by the Department of Transportation. Said signs shall be no less than 2' by 3' in size, and shall be posted on the left and right sides of the highway being monitored.

(d) "State highways," as used in subsection (c) of this section, include the following:

(1) U.S. 13;

(2) U.S. 113;

(3) Delaware Route 1 (SR 1);

(4) Interstate I-95;

(5) Interstate I-495;

(6) Delaware Route 141;

(7) Delaware Route 2;
(8) Delaware Route 896;
(9) Delaware Route 4;
(10) U.S. Route 40;
(11) U.S. Route 301;
(12) U.S. 202; and
(13) Interstate I-295.

(e) No municipal, town or city police department shall operate any speed enforcement equipment outside of its corporate limits, notwithstanding any municipal charter provision or provision of this Code to the contrary.

(36 Del. Laws, c. 10 § 145; Code 1935 § 5683; 48 Del. Laws, c. 195; 21 Del. C. 1953 § 701; 56 Del. Laws, c. 264; 57 Del. Laws, c. 670 § 7A; 58 Del. Laws, c. 132; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 325 §§ 1, 2; 73 Del. Laws, c. 206 § 1; 74 Del. Laws, c. 110 § 39; 79 Del. Laws, c. 331 § 1; 79 Del. Laws, c. 410 § 1.)

## § 702 Failure to answer summons; penalty.

(a) Whoever fails to answer any summons to appear in any court of competent jurisdiction to answer for any violation of the motor vehicle laws of this State, after notice thereof served personally or securely fastened to the motor vehicle of which such person is the owner or operator, shall be fined, for the first offense, not less than $25 nor more than $50. For each subsequent like offense, such person shall be fined not less than $50 nor more than $100, or imprisoned not less than 2 nor more than 15 days or both.

(b) The offense set forth in subsection (a) of this section above shall not be charged in any case in which a court of competent jurisdiction has already issued a capias or bench warrant for the failure to answer the original summons, or in any case where the defendant's driver's license or driving privileges have been suspended as a result of failure to pay the summons through voluntary assessment pursuant to § 709(j) of this title.

(36 Del. Laws, c. 10 §§ 141, 145; 40 Del. Laws, c. 38 § 4; Code 1935 §§ 5679, 5683; 45 Del. Laws, c. 292 § 2; 48 Del. Laws, c. 195; 21 Del. C. 1953 § 703; 65 Del. Laws, c. 503 § 2; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 18 § 1.)

## § 703 Jurisdiction of offenses.

(a) A person arrested without a warrant for a violation of any section of this title, or arrested for any moving traffic violation or any municipal ordinance regulating traffic within its territorial limits as set forth in Chapter 41 of this title shall have such case heard and determined by a justice of the peace.

(b) Notwithstanding subsection (a) of this section, the arresting officer may issue a summons to the person arrested for an appearance at a subsequent date before a justice of the peace.

(c) The arresting officer shall take the person arrested without a warrant, or shall summon the person arrested to appear at a subsequent date, before a Justice of the Peace Court which is located in the same county wherein the violation occurred, unless a Justice of the Peace Court located in another county is closer to the place where the violation occurred, in which case the arresting officer may take the person arrested without a warrant, or may summon the person arrested to appear at a subsequent date, before said Court.

Notwithstanding the foregoing, any case in which a person is arrested or issued a summons within the corporate limits of the city of Milford for a violation of a provision of this title, with the exception of violations of § 4177 of this title, shall be heard and adjudicated in the nearest available Justice of the Peace Court location in Kent County. Violations of § 4177 of this title within the corporate limits of the city of Milford may be initiated or transferred to any Justice of the Peace Court location so designated by the Justice of the Peace Court to hear such cases. Once properly within the jurisdiction of a particular Justice of the Peace Court location, that location shall retain jurisdiction until final adjudication, unless a transfer of venue is permitted by statute or court rule.

(d) Anything else in this or any other chapter or title notwithstanding, those proceedings in the Justice of the Peace Courts specified by court rule may be conducted by audiovisual device. Audiovisual monitors shall be situated in the courtroom and where the defendant is present so as to provide the public, the court and the defendant with a view of the proceedings. Such proceedings may be conducted by a Justice of the Peace Court in the same or another county from that in which the defendant is physically located.

(e) Notwithstanding any other provision of this section to the contrary, in those incorporated municipalities which provide duly constituted alderman's courts or mayor's courts, the alderman and mayor shall continue to hear and adjudicate those cases in which a person is arrested without a warrant and where the alderman's court or the mayor's court is the court of original jurisdiction.

(f) Notwithstanding subsection (e) of this section, no alderman, mayor or other municipal official shall be authorized to adjudicate any alleged moving traffic violation unless said court complies with the following:

(1) All convictions in said alderman's court or mayor's court for moving traffic violations and the disposition of those cases shall become a matter of record to be filed with the State Division of Motor Vehicles. Records of all such convictions shall be forwarded to the Division no later than 10 days after disposition of the case.

(2) The adjudicating official shall receive a salary but no other compensation for performing such official's duties. All fees, fines, costs and other funds collected by the court in the course of its business shall be deposited to the account of the municipality from which the adjudicating official derives authority.

(g) Superior Court shall have jurisdiction to issue writs of mandamus to adjudicating officials of any alderman's court or mayor's court to compel compliance with this section.

(36 Del. Laws, c. 10 § 145; Code 1935 § 5683; 21 Del. C. 1953 § 704; 50 Del. Laws, c. 414 § 1; 55 Del. Laws, c. 256 §§ 1, 2; 56 Del. Laws, c. 402; 57 Del. Laws, c. 670 § 7B; 58 Del. Laws, c. 447; 60 Del. Laws, c. 553 §§ 1, 2; 63 Del. Laws, c. 221 §§ 1-3; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 43 § 3; c. 176 § 27; 76 Del. Laws, c. 28 § 1.)

## § 703A Reporting of offenses to the Division of Motor Vehicles by the courts.

All record convictions for any person for violations of this title, Title 4, Title 10, Title 11 and Title 16, which apply to motor vehicle violations, the suspension and/or revocation of a license and/or driving privileges shall be reported within 30 days to the Division of Motor Vehicles by each court within the State. Such reporting shall be deemed acceptable if in written form or by electronic data transfer. The original conviction documents shall be retained by the court and forwarded to the Division upon request.

(70 Del. Laws, c. 87 § 1.)

## § 704 Jurisdiction over certain children; notice that child has been taken into custody.

(a) Justices of the peace shall have jurisdiction over a child 16 or 17 years of age or older charged with having violated this title, except as provided in § 927 of Title 10 and except when said child is charged with having violated 1 or more of the offenses specified in § 927 of Title 10 and, in the same incident, is charged with having violated other Title 21 offenses not specified in § 927 of Title 10, in which event the entire case shall be heard in the Family Court.

(b) Justices of the peace and arresting officers shall conform to the procedure for advising the accused of all rights of election of trial in the Court of Common Pleas as provided in § 5901 of Title 11.

(c) Section 703 of this title shall also be applicable to all alleged offenders.

(d) Justices of the peace shall adhere to the procedures, where applicable, as specified in Chapter 9 of Title 10, for offenders over whom they have jurisdiction pursuant to this section.

(e) Any peace officer having taken a child into custody or any justice of the peace before whom said child is brought by a peace officer shall make a reasonable attempt to notify the person having the care of the child that the child has been taken into custody.

(f) The jurisdiction of the Family Court in matters involving the violation of this title by children 16 years of age or over is hereby terminated, with the exception of those offenses over which the Family Court has expressly retained jurisdiction under § 927 of Title 10 and except for such actions for the violation of this title which were commenced prior to August 5, 1976.

(21 Del. C. 1953 § 704A; 58 Del. Laws, c. 115 § 1; 58 Del. Laws, c. 273; 60 Del. Laws, c. 708 §§ 4, 5; 63 Del. Laws, c. 326 § 1; 71 Del. Laws, c. 176 §§ 28, 29.)

## § 705 Bail.

In the event of an arrest for the violation of any section of this title, if the defendant is unable to give sufficient bail for a hearing or for the defendant's presence at court, the justice of the peace before whom the defendant is first taken may accept as a forfeit, conditioned upon the defendant's appearance, a sum of money equal in amount to the maximum fines which could be imposed for the offense charged and the costs or in lieu of such bail or forfeit may accept any article of sufficient value or hold in custody a motor vehicle found in the possession of the defendant. Such justice of the peace after the trial of the defendant, if sufficient bail according to law has not been given in the meantime, shall make such order as to the disposal of such motor vehicle or other articles as to the justice of the peace seems just and proper.

(36 Del. Laws, c. 10 § 145; Code 1935 § 5683; 21 Del. C. 1953 § 705; 70 Del. Laws, c. 186 § 1.)

## § 706 Disposition of fines and costs.

(a) All fines collected for the violation of any of the provisions of this title, in the limits of any county, incorporated city or town in this State where arrests are procured by the authorized representatives of that county, incorporated city or town, shall be paid to that county, incorporated city or town within which such offense was committed for the use of that county, incorporated city or town. Nothing in this section shall be construed to entitle any county to fines, penalties or forfeitures arising from an arrest made under this title by an authorized representative of that county for a violation committed within any incorporated city or town. All the fines, penalties and forfeitures imposed and collected in any county of this State for violation of any of the laws of this title in relation to motor vehicles, where the arrests are procured by the authorized representatives of the Department of Safety and Homeland Security, shall inure and be paid to the State Treasurer for the General Fund. Such fines, penalties and forfeitures shall be collected as other fines, penalties and forfeitures are collected under the laws of this State, and the officers collecting them shall make a monthly report thereof to the State Treasurer on blanks to be furnished for that purpose by the Department of Safety and Homeland Security. All costs collected for the violation of any of the provisions of this title shall be paid to the jurisdiction whose court imposed said costs.

(b) All fines and costs collected as a result of radar or other speed timing devices, where the device is operated to determine speed beyond the corporate limits of an incorporated city or town but within the jurisdiction of the extended corporate limits provided by the applicable municipal charter, shall be paid to the State Treasurer for the General Fund.

(c) Violation, refusal or neglect to comply with any of the provisions regarding the disposal of fines and forfeitures as provided in subsection (a) of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(36 Del. Laws, c. 10 § 145; Code 1935 § 5683; 21 Del. C. 1953 § 706; 57 Del. Laws, c. 670 § 7C; 60 Del. Laws, c. 432 § 1; 65 Del. Laws, c. 141 §§ 1-4; 71 Del. Laws, c. 152 §§ 1, 2; 74 Del. Laws, c. 110 § 138.)

## § 707 Sunday hearings; bail.

(a) Any justice of the peace or mayor may hear and determine cases involving alleged violation of the traffic laws on Sunday.

(b) Any judgment rendered or bail bond taken in pursuance of the provisions of this title shall be of full force and effect as though such judgment were rendered or bail bond accepted on days other than Sundays, if the justice of the peace or mayor so rendering or accepting bail bond on Sunday heretofore would have had jurisdiction on days other than Sundays to render such judgment or accept such bail bond.

(34 Del. Laws, c. 220 §§ 1, 2; Code 1935 § 5684; 21 Del. C. 1953 § 707.)

## § 708 Appeal.

(a) Any person convicted under this title, or under any municipal ordinance or other law, for a motor vehicle violation 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 title, to the Court of Common Pleas, upon giving bond in the sum of $500 to the State with surety satisfactory to the mayor or judge before whom such person was convicted, such appeal to be taken and bond given within 15 days from time of conviction. Such appeal shall operate as a stay or supersedeas 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.

(b) Except as provided in subsection (a) of this section, any person convicted under this title shall have the right of an appeal to the Court of Common Pleas only in those cases in which the sentence imposed was imprisonment, or a fine exceeding $100, upon giving bond with surety satisfactory to the alderman, justice of the peace or a judge before whom such person was convicted, such appeal to be taken and bond given with 15 days from the time of conviction. Such appeal shall operate as a stay or supersedeas 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.

(36 Del. Laws, c. 10 § 146; Code 1935 § 5685; 48 Del. Laws, c. 337 § 1; 21 Del. C. 1953 § 708; 63 Del. Laws, c. 342 § 1; 69 Del. Laws, c. 427 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 66 § 1; 71 Del. Laws, c. 176 § 30.)

## § 709 Payment of motor vehicle fines.

(a) Applicability. — Any duly constituted peace officer in the State who charges any person with any of the offenses hereinafter designated "motor vehicle offenses subject to voluntary assessment" may indicate on the Uniform Traffic Complaint and Summons that the fine shall be paid by voluntary assessment unless the driver requests a hearing. When a voluntary assessment is permitted and the Uniform Traffic Complaint and Summons is properly executed by the officer, the driver may dispose of the charge without the necessity of personally appearing in the court to which the Uniform Traffic Complaint and Summons is returnable. The court to which the summons is returnable shall be determined by § 703 of this title unless the summons permits a voluntary assessment, in which case it shall be returnable to either the applicable court or a voluntary assessment center established by the Justice of the Peace Court. Notwithstanding any provision of this section and chapter to the contrary, the City of Wilmington may establish the exclusive voluntary assessment center for parking summonses issued for designated offenses within the boundaries of the City of Wilmington.

(b) Definitions. —

(1) "Payment," as used in this section, shall mean the total amount of the fine and of the costs as herein provided and of the penalty assessment added to the fine pursuant to the Delaware Victim Compensation Law, Chapter 90 of Title 11, and other penalty assessment as provided by law.

(2) "Signature" shall include a written signature or an electronic signature as defined by § 101 of this title.

(3) "Voluntary assessment" means the process set forth in this section by which a driver may voluntarily remit payment of a Title 21 violation without having to appear in a court.

(c) Places and time of payment. — Payments made pursuant to this section shall be remitted to the court or voluntary assessment center to which the summons is returnable and shall be disbursed in accordance with § 706 of this title. The court or voluntary assessment center must receive the payment within 30 days of the arrest. Payment to the voluntary assessment center shall be paid only by check, money order or credit card.

(d) Jurisdiction. — This section shall apply to any licensed resident of the State; to residents of those jurisdictions with which the State has entered a reciprocal agreement pursuant to Chapter 4 of this title; and to those out-of-state residents who, in the discretion of the arresting peace officer, are deemed to be reliable prospects for a voluntary assessment disposition.

(e) Offenses designated as "motor vehicle offenses subject to voluntary assessment"; exceptions. — All offenses as now or hereafter set forth in this title and all motor vehicle offenses falling within the scope of § 5211(a) of Title 30 are hereby designated as motor vehicle offenses subject to voluntary assessment except for the following offenses:

(1) Violation of § 2118 of this title;

(2) Violation of § 2118A of this title;

(3) Violation of § 2701 of this title;

(4) Violation of § 2751 of this title;

(5) Violation of § 2752 of this title;

(6) Violation of § 2756 of this title;

(7) Violation of § 4103 of this title;

(8) Violation of § 4166(d) of this title;
(9) Violation of § 4172 of this title;
(10) Violation of § 4175 of this title;
(11) Violation of § 4175A of this title;
(12) Violation of § 4177 of this title;
(13) Violation of § 4177L of this title;
(14) Violation of § 4201 of this title;
(15) Violation of § 4202 of this title;
(16) Any violation of Chapter 67 of this title; and
(17) Violations of other Title 21 sections which are deemed not appropriate for processing by voluntary assessment.

(f) Procedure for voluntary assessment. —

(1) At the time of making an arrest for any offense subject to this section, the arresting officer shall determine whether the offense may be handled as a voluntary assessment. If the officer determines that the offense may be so treated, the officer may indicate on the Uniform Traffic Complaint and Summons that payment shall be made by voluntary assessment, unless the driver requests a hearing on the charge or charges. The officer shall inform the arrested person of the court or voluntary assessment center to which payment should be submitted if the person does not request a hearing. No officer shall receive or accept custody of a payment.

(2) A driver who has been given a Uniform Traffic Complaint and Summons which specifies that payment be made by voluntary assessment shall pay the fine, together with costs and penalty assessments, within 30 days from the date of arrest during which time payment must be received by the applicable court or voluntary assessment center.

(3) In lieu of paying the voluntary assessment, a driver who has been given a voluntary assessment may request a hearing by notifying, in writing, the court or the voluntary assessment center to which payment is to be made within 30 days of the date of arrest. If the driver makes a timely request for a hearing, 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.

(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.

(g) Penalty. — The penalty for offenses for which a voluntary assessment payment is made shall be the minimum fine for each specific offense charged and fines shall be cumulative if more than 1 offense is charged. Provisions of this paragraph as to penalties 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.

(h) Court costs; applicability of Delaware Victim Compensation Law. — In lieu of any other court costs, and provided the offense is not subject to other proceedings under this section, each fine for an offense under this section shall be subject to court costs for processing a voluntary assessment agreement as prescribed by § 9801 of Title 10. Each fine for an offense under this section 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, costs and penalty assessment is an admission of guilt, a waiver of the right to a hearing, and a complete satisfaction of the violation, except as provided in paragraph (i)(2) of this section. Anything in this section notwithstanding, if an agreement for a voluntary assessment is signed by the driver, the signature of the driver shall constitute an acknowledgment of guilt of the stated offense and an agreement to pay the fine, together with costs and penalty assessment within 30 days from the date of arrest. Payment does not waive any administrative penalty which may be lawfully charged to the violator's driving record by the Department of Safety and Homeland Security.

(2) In the event that, following compliance with the payment provisions of this section, it is determined that within the 2-year period immediately preceding the violation, the violator was convicted of or made a payment pursuant to this section in satisfaction of a violation of the same section of this title, personal appearance before the court to which the summons is returnable or the court which is associated with the applicable voluntary assessment center may be required.

(j) Failure to pay a voluntary assessment. —

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

1. Pay the voluntary assessment within 30 days from the date of arrest.

2. Notify the court or voluntary assessment center within 30 days from the date of arrest, in writing, that the driver is requesting a hearing on the charge stated in the Uniform Traffic Complaint and Summons.

3. Appear at trial on the charge stated in the Uniform Traffic Complaint and Summons on the date and time required by the court.

4. Pay the fine on the charge stated in the Uniform Traffic Complaint and Summons in accordance with a deferred payment order.

b. When the name and address of any driver has been forwarded to the Division of Motor Vehicles under paragraph (j)(1)a. of this section, the Division of Motor Vehicles shall refuse to renew or issue a duplicate of the driver's license of a Delaware resident, in accordance with § 2732(g) of this title.

c. When the name and address of any driver has been forwarded to the Division of Motor Vehicles under paragraph (j)(1)a. of this section, the Division of Motor Vehicles may suspend the driving privileges in this State of a nonresident of Delaware and immediately advise the Motor Vehicle Administrator of the state in which the person is a resident that the person's license to drive be suspended in accordance with § 2733(m) of this title.

(2) If a driver pays a voluntary assessment more than 30 days after the date of arrest, 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 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, a waiver of the right to a hearing, and a complete satisfaction of the violation, except as provided in paragraph (i)(2) of this section.

(3) If a driver 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) of this section 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.

(4) [Repealed.]

(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.

(60 Del. Laws, c. 509 § 1; 63 Del. Laws, c. 303 § 1; 67 Del. Laws, c. 281 § 27; 70 Del. Laws, c. 157 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 240 § 3; 73 Del. Laws, c. 234 § 2; 74 Del. Laws, c. 110 § 138; 76 Del. Laws, c. 251 § 1; 78 Del. Laws, c. 230 § 1; 80 Del. Laws, c. 137 § 1; 80 Del. Laws, c. 201 § 1.)

## § 710 State Police size and weight enforcement technicians.

(a) The Secretary of Public Safety may designate civilian members of the Division of State Police as size and weight enforcement technicians. Members of the Division of State Police so designated shall be empowered to perform the duties prescribed in subsection (b) of this section when working in conjunction with, and in the physical presence of, sworn members of the Division.

(b) Civilian members of the Division of State Police, where designated pursuant to subsection (a) of this section, shall:

(1) Direct, control and regulate vehicle and pedestrian traffic;

(2) Inspect drivers' licenses, vehicle registrations, motor fuel tax cab cards, and other documentations required by law;

(3) Measure and weigh vehicles and vehicle loads as set forth in § 4506 of this title;

(4) Issue voluntary assessments, summons and make traffic arrests for violations of this title and Chapter 52 of Title 30.

(64 Del. Laws, c. 181 § 1.)

## § 711 Summons or citations in offenses involving injury.

In any matter in which a violation of this title is alleged to involve physical injury to a person, other than the person charged with the violation, each summons or uniform traffic citation issued by the arresting or investigating officer in the matter shall include thereon a designation that it relates to injury-related offense.

(71 Del. Laws, c. 247 § 1.)

## § 712 Uniform Traffic Complaint and Summons.

(a) Notwithstanding any other provision of law to the contrary, a Uniform Traffic Complaint and Summons may be issued electronically or in written form. The office may sign the Uniform Traffic Complaint and Summons using an electronic and/or a written signature.

(b) Whenever a person is detained for commission of an offense under this title or § 5211(a) of Title 30, the arresting officer shall verify the driver's identification and shall enter identification information from the driver's license in the Uniform Traffic Complaint and Summons; specify on the Uniform Traffic Complaint and Summons the amount of the fine and whether it may be made by voluntary assessment or whether appearance at the court is required; give a copy to the arrested person; and release such person from custody.

(c) The printed copy of an electronically issued Uniform Traffic Complaint and Summons shall contain a conspicuous statement of the total number of charges on the first page and shall list each individual charge. All charges based on the same arrest shall be issued on the same electronically issued Uniform Traffic Complaint and Summons unless evidence necessitates the subsequent issuance of a warrant.

(d) The Uniform Traffic Complaint and Summons shall be delivered forthwith from the time of arrest to the voluntary assessment center or to the court to which the summons is returnable. The electronic Uniform Traffic Complaint and Summons shall be available for immediate entry in the DELJIS system or its successor.

(e) When a Uniform Traffic Complaint and Summons is issued electronically, any printout or other output readable by sight shall be an original except that once a ticket is sworn to prior to trial, the signed and sworn to ticket shall be the original from that point forward.

(73 Del. Laws, c. 234 § 3.)

## § 713 Classification of motor vehicle offenses.

Notwithstanding § 4203 of Title 11, any criminal offense in this title, unless otherwise declared with respect to particular offenses, or unless an offense described in § 709(e)(1) to (e)(16) of this title, shall be a violation. The provisions of § 4207 of Title 11 notwithstanding, the court may impose a sentence in accordance with the sentence specified in the law defining the offense or a law in this title specifying a sentence for the offense, and, if no sentence is so specified, the court may impose a fine up to $575.

(77 Del. Laws, c. 60 § 2; 78 Del. Laws, c. 230 § 1.)

# Part I
# General Provisions
# Chapter 8
# PROVISIONS REGARDING CIVIL TRAFFIC OFFENSES

## § 801 Applicability.

The provisions of this chapter shall apply to civil penalties created pursuant to §§ 4101(d) and 4802 of this title and to other civil penalties provided for in this title.

(75 Del. Laws, c. 204 § 1.)

## § 802 Authority to stop.

Any police officer is authorized to make an administrative stop for purposes of enforcing a civil traffic statute, upon a reasonable and articulable suspicion that a violation of such statute has occurred.

(75 Del. Laws, c. 204 § 1.)

## § 803 Right of transfer.

The provisions of § 5303 of Title 11 shall not apply to a civil traffic offense. However, the Justice of the Peace Court may establish procedures for transferring to the Court of Common Pleas a civil traffic offense with a criminal offense which occurred in the same incident.

(75 Del. Laws, c. 204 § 1.)

## § 804 Jurisdiction over certain children.

The Justice of the Peace Court shall have jurisdiction over children age 16 or 17 years of age or older charged with a civil traffic offense except when said child is also charged in the same incident with having violated 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 has jurisdiction over a child charged with a civil traffic offense, the provisions of this chapter shall apply. Section 921(10) of Title 10 or Justice of the Peace Court Civil Rule 55 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.

(75 Del. Laws, c. 204 § 1.)

## § 805 Payment of penalties and costs.

(a) Payment of penalties and costs. — Upon being found responsible for a civil traffic offense, all the costs shall be paid by the party found responsible.

(b) The videophone assessment provided for in § 4101(d) of Title 11 shall not be assessed.

(c) The victim's compensation penalty assessment provided for in § 9016 of Title 11 shall not be assessed.

(d) Court costs shall be governed by Justice of the Peace Court rule, consistent with § 9801 of Title 10.

(e) Immediately upon imposition by a court of a civil penalty 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 penalty 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 shall, upon motion, 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 whom civil penalties or costs are payable pursuant to subsection (j) of 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 penalty or costs or both which was later set aside by a court of higher jurisdiction upon a certiorari or appeal from the lower court, as provided in § 4103 of Title 11 for fines.

(h) When a court imposes a civil penalty, costs or both, the court may direct that the defendant pay the entire amount at the time of imposition or may direct that the defendant pay a specified portion of the civil penalty, or costs, or both at designated periodic intervals. The Court may order the defendant to participate in work referral until the civil penalties and costs are paid. Failure to participate in court-ordered work referral shall not result in contempt of court. Failure to participate in court-ordered work referral may result in the transfer of the judgment to the Office of State Court Collections Enforcement to be collected according to § 4104 of Title 11.

(i) For purposes of ensuring the payment of civil penalties and costs and the enforcement of any orders imposed, the court shall retain jurisdiction over the person found responsible for a civil traffic offense until any civil penalty or costs imposed are paid in full. The court may discharge the civil penalty and costs of any person found responsible when the court receives evidence that such person is deceased.

(j) The provisions of § 706 of this title shall be applicable to the disposition of amounts collected for civil penalties and related costs.
(75 Del. Laws, c. 204 § 1; 77 Del. Laws, c. 294 § 1; 80 Del. Laws, c. 183 § 1.)

## § 806 Payment by voluntary assessment.

Civil traffic offenses shall be payable by mail to the voluntary assessment center or other applicable entity. The provisions of this chapter shall govern the failure to pay a voluntary assessment for a civil traffic offense.
(75 Del. Laws, c. 204 § 1.)

## § 807 Default judgment.

If a defendant:

(1) Requests a hearing and fails to appear on a civil traffic charge; or

(2) Fails to either pay the voluntary assessment within the time specified on the notice or summons, or to notify the court or voluntary assessment center or applicable entity within the required time, that the defendant wishes to have a hearing on the charge,

a default judgment may be entered against the defendant. Such judgments may be vacated or enforced consistent with § 805(e) of this title.
(75 Del. Laws, c. 204 § 1; 70 Del. Laws, c. 186 § 1.)

## § 808 Forwarding of names to the Division of Motor Vehicles.

(a) Except as to persons operating a commercial motor vehicle in violation of § 4176C of this title, § 703A of this title shall not apply to persons found responsible for civil traffic offenses. No record of a finding of responsible for a civil traffic violation shall be forwarded to the Division of Motor Vehicles and no entry shall be made on the person's driving record for a civil traffic violation.

(b) The court, voluntary assessment center or other authorized entity shall forward to the Division of Motor Vehicles the name and address of a person who has:

(1) Been found responsible in court for a civil traffic offense and been ordered to pay a civil penalty, costs, or both, and who fails to pay such civil penalty, costs, or both at the time of the order or in accordance with a payment schedule;

(2) Failed to either pay the voluntary assessment within the time specified on the summons or notice or notify the court or other authorized entity within the required time, that the person wishes to have a hearing on the charge, or, submit an affidavit stating that the person was not the driver, if applicable; or

(3) Has requested a trial on the charge and has failed to appear at the time and place set for trial.
(75 Del. Laws, c. 204 § 1; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 279 § 2.)

## § 809 Payment of motor vehicle fines.

When a person's name and address is forwarded to the Division of Motor Vehicles pursuant to § 808(b) of this title and the offense was one for which the person received personal service of the notice or summons, or the offense was one for which service was made by mail and the person has either requested a hearing and failed to appear or been found responsible for the offense and failed to pay the civil penalty, costs, or both, either at the time of the order or in accordance with a payment schedule, the Division of Motor Vehicles:

(1) Shall forthwith suspend the driver's license of a resident of this State, unless the person's name and address was forwarded to the Division of Motor Vehicles under § 709(j) of this title, in which case the provisions of § 709(j) of this title shall apply.

(2) May suspend the driving privileges in this State of a nonresident of this State and immediately advise the motor vehicle administrator of the state in which the person is a resident that the person's license to drive be suspended until proof is provided that the person has paid the civil penalty, costs, or both, has appeared in court following a default in appearance or payment and made arrangements to pay the civil penalty, costs, or both, or has had a default judgment vacated and been found not responsible.
(75 Del. Laws, c. 204 § 1; 80 Del. Laws, c. 137 § 2; 80 Del. Laws, c. 201 § 1.)

## § 810 Refusal of registration renewal.

When a person's name and address is forwarded to the Division of Motor Vehicles pursuant to § 808(b) of this title and the offense was 1 for which the person received service of the notice or summons by mail and the person has not responded within the required time by either paying the civil penalty or requesting a hearing or, submitting an affidavit stating that the person was not the driver, if applicable, the Division of Motor Vehicles may deny the renewal of the registration of the owner's vehicle operated at the time the summons was issued. The Division shall register any vehicle for which it has refused registration upon proof that the person has paid the civil penalty, costs, or both, or has appeared in court following a default in appearance or payment and made arrangements to pay the civil penalty or costs or both or has had a default judgment vacated and been found not responsible.
(75 Del. Laws, c. 204 § 1; 70 Del. Laws, c. 186 § 1.)

## § 811 Appeal.

Any appeals of civil penalties assessed under this chapter shall be taken in the same manner as provided in § 708 of this title.
(75 Del. Laws, c. 204 § 1.)

## § 812 Court rules or policies.

The Justice of the Peace Court, upon approval by the Chief Justice, may develop court rules, administrative directives, or other forms of policies for handling of civil traffic offenses.

(75 Del. Laws, c. 204 § 1.)

# Part II
# Registration, Title and Licenses
# Chapter 21
# REGISTRATION OF VEHICLES
## Subchapter I
## General Provisions

### § 2101 Operation of unregistered vehicle; exceptions.

(a) No person shall drive or move, nor shall any person, being the owner of a vehicle, knowingly permit to be driven or moved upon any highway any vehicle, except trackless trolley coaches, of a type required to be registered hereunder, which is not registered and for which current registration plates have not been issued as provided in this chapter or for which the appropriate fees have not been paid when and as required by this chapter, except that when application accompanied by the proper fee has been made for registration and certificate of title for a vehicle, the same may be operated temporarily pending complete registration upon displaying a duplicate application duly verified or other evidence of such application or otherwise under rules and regulations promulgated by the Department.

(b) A motor vehicle or vehicle being towed by a motor vehicle registered as a tow truck or wrecker shall not be in violation of subsection (a) of this section or § 2115 of this title if such towed vehicle has 1 end hoisted off the ground while being towed. The term tow truck or wrecker does not apply to a vehicle registered as a truck tractor.

(c) A motor vehicle or vehicle being operated on public roadways for the purpose of being transported between the Wilmington Port Authority and short-term parking areas within 1 mile of the facility's gates need not be registered. These vehicles must have insurance that meets the minimum requirements of § 2118 of this title, before they are operated on any public roadway.

(d) Notwithstanding any law or regulation to the contrary, a motor vehicle need not be registered and shall not be in violation of § 2115 of this title, if the vehicle is being driven by a repair technician for drive cycle testing, certified under the Delaware Emission Education Program ("DEEP") who has in that technician's possession:

(1) A permit issued by the Department of Natural Resources permitting such operation;

(2) Testing equipment for an on board diagnostic test is installed in the vehicle; and

(3) The operator has evidence of a current and applicable garage keeper's policy on hand, evidencing insurance coverage available for such operation.

(36 Del. Laws, c. 10 § 7; Code 1935 § 5545; 47 Del. Laws, c. 265; 21 Del. C. 1953 § 2101; 49 Del. Laws, c. 220 § 20; 63 Del. Laws, c. 339 § 1; 74 Del. Laws, c. 130 § 1; 77 Del. Laws, c. 293 § 1.)

### § 2102 Registration of vehicles of new residents; penalty.

(a) Every owner of a motor vehicle, trailer, or other vehicle shall, within 60 days after taking up residence in this State, apply to the Secretary and obtain registration for the vehicle. Vehicle owners who have apportioned power units registered in Delaware under the International Registration Plan are exempt from the requirement to register their trailers in accordance with the International Registration Plan agreement. Members of the military and their families who have vehicles registered in their home state are also exempt from this requirement.

(b) Whoever violates subsection (a) of this section shall be fined for the first offense not less than $400 nor more than $600. For each subsequent like offense, such person shall be fined not less than $800 nor more than $1,200, or imprisoned not less than 10 days nor more than 30 days, or both.

(Code 1935 § 5546A; 48 Del. Laws, c. 293 § 1; 21 Del. C. 1953 § 2102; 57 Del. Laws, c. 670 § 8A; 60 Del. Laws, c. 385 § 1; 64 Del. Laws, c. 466 § 5; 65 Del. Laws, c. 503 § 3; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 335 § 1.)

### § 2103 Temporary registration permits.

The Department may, in its discretion, grant temporary or limited registration permits, in no case to be valid for more than 15 days, and may issue appropriate certificates or other evidence therefor as listed below:

(1) When application for a certificate of title has been made accompanied by the proper fee, a temporary permit without additional fee may be issued pending action upon such application by the Department;

(2) During suspension of registration because of failure of the vehicle upon inspection to meet the legal performance requirements or equipment standards, a temporary permit without additional fee may be issued to allow the vehicle to be driven away to be repaired and returned for inspection or to be driven to a storage place;

(3) When a registration has expired, a temporary permit may be issued upon the payment of a fee of $20 in addition to the regular fee for reregistration so that the vehicle may be driven to a place for repair, if necessary, and to an inspection station preparatory to reregistration;

(4) For the movement of unregistered vehicles by persons entitled to move the same, when it is not proposed to secure a certificate of title or a transfer of title to such vehicle, a temporary permit may be issued for which a fee of $20 shall be charged;

(5) For moving vehicles of which the ownership has been transferred by process of law as provided in §§ 2501-2507 of this title, a permit may be issued without charge.

(6) Trip permit registrations pursuant to the International Registration Plan, as authorized in Chapter 4 of this title, may be issued for any vehicle or combination of vehicles which could lawfully operate in this State if full registration or proportional registration were obtained. A permit for this purpose shall be valid for 3 days, including the day issued, for which a fee of $15 shall be charged.

(Code 1935 § 5546A; 43 Del. Laws, c. 244 § 3; 21 Del. C. 1953 § 2103; 53 Del. Laws, c. 221 § 1; 67 Del. Laws, c. 260 § 1; 68 Del. Laws, c. 156 §§ 57(a), (b); 70 Del. Laws, c. 202 § 1; 80 Del. Laws, c. 77 § 14.)

## § 2104 Application for registration.

(a) Every owner of a vehicle desiring registration shall make application to the Department for the registration thereof upon the appropriate form or forms furnished by the Department. Every such application shall bear the signature of the owner written with pen and ink, and the signature shall be acknowledged by the owner before a person authorized to administer oaths.

(b) The application shall contain:

(1) The name and address of the owner: When the owner is an individual, the address shall be the bona fide residence of the individual; when the owner is a partnership, association, trust or corporation, the address shall be that of the principal office thereof wherever located together with the address of the principal office within this State, if any;

(2) A description of the vehicle including, insofar as the following specified data may exist with respect to a given vehicle, the make, model, color, type of body, the serial number of the vehicle, or any number as may be assigned by the Department, and whether new or used and, if a new vehicle, the date of sale by the manufacturer or dealer to the person intending to operate said vehicle;

(3) Such further information as may reasonably be required by the Department to enable it to determine whether the vehicle is lawfully entitled to registration;

(4) The Department shall allow the registration of trailers for individuals who are not bona fide residents of Delaware if the individual provides documented proof of ownership of a residence in Delaware and signs a declaration indicating the trailer will remain in Delaware at all times.

(c) In the event that the vehicle for which registration is applied is a specially constructed, reconstructed or a foreign vehicle, such fact shall be stated in the application, and with reference to every foreign vehicle which has been registered theretofore outside of this State, the owner shall surrender to the Department all registration cards and certificates of title or other evidence of such foreign registration or ownership as may be in the owner's possession or under the owner's control, except where in the course of interstate operation of a vehicle registered in another state it is desirable to retain registration of the vehicle in such other state, such applicant need not surrender, but shall submit for inspection, evidences of such foreign registration or ownership, and the Department upon a proper showing may register the vehicle in this State, but shall not issue a certificate of title therefor.

(d)(1) The Department shall allow the registration of motor vehicles owned by individuals who are not bona fide residents of Delaware upon presentation of an affidavit by the applicant, on a form approved by the Department, swearing or affirming:

a. That the vehicle is principally garaged in Delaware;

b. That the applicant is the owner of at least 1 other vehicle which is registered and insured in the state of the applicant's domicile; and

c. To such other information not inconsistent with this subsection as may be deemed appropriate by the Department or the Insurance Commissioner.

(2) An affiant shall notify the Division of Motor Vehicles and the affiant's automobile insurance company of any changes in the above conditions within 30 calendar days from the date of change.

(3) The penalties prescribed by Chapter 24 of Title 18 shall apply to a violation of this subsection.

(36 Del. Laws, c. 10 § 8; 37 Del. Laws, c. 10 § 3; Code 1935 § 5546; 43 Del. Laws, c. 244 § 2; 21 Del. C. 1953 § 2104; 50 Del. Laws, c. 182 § 1; 62 Del. Laws, c. 190 § 5; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 250 § 1; 71 Del. Laws, c. 319 § 1; 75 Del. Laws, c. 240 § 1.)

## § 2105 Registration of heavy vehicles.

(a) Every person applying to register a vehicle at a registered gross vehicle weight in excess of 26,000 pounds shall provide to the Department with the application documentation of the manufacturer's gross vehicle weight rating for such vehicle.

(b) Any of the following items shall constitute acceptable documentation of the manufacturer's gross vehicle weight rating in accordance with this section:

(1) A valid manufacturer's gross vehicle weight rating plate, sticker or plaque permanently affixed to the vehicle; or

(2) New vehicle delivery documents which contain the vehicle identification number (VIN), and the gross vehicle weight rating; or

(3) A written statement from the manufacturer setting forth the vehicle identification number (VIN), the weight ratings of the major component parts of the vehicle, including axle assemblies, suspension system, frame and tires, and the overall gross vehicle weight rating. The manufacturer's statement must be based on the design weight rating of the component parts, including tires, and upon the professional judgment of the manufacturer, in the exercise of due care, that the components and their installation are in accordance with

accepted industry practice and in compliance with the Federal Motor Vehicle Safety Standard found in Title 49 of the Code of Federal Regulations.

(4) In the case that a vehicle is missing a valid manufacturer's gross vehicle weight rating plate, sticker, or plaque, or cannot obtain a manufacture's statement, DMV shall assign a GVWR for that vehicle based on the federal bridge formula, or acceptable alternative.

(c) As used in this chapter, "manufacturer" shall include any maker of new, incomplete vehicles and such maker's authorized sales and service representatives; any maker or final assembler of vehicle bodies, components or specialized equipment; and any installer of vehicle bodies, major components or specialized equipment which alters the vehicle's gross vehicle weight rating, or which substantially changes its use, and which conforms to the requirements of the National Traffic and Motor Vehicle Safety Act [repealed; see now 49 U.S.C. §§ 30101, et seq.] and of the Federal Motor Vehicle Safety Standard found in Title 49 of the Code of Federal Regulations.

(d) Any vehicle which has a gross weight in excess of 26,000 pounds, except as provided in §§ 2152 and 4502(c)(2) of this title, shall not be registered at a weight in excess of the manufacturer's gross vehicle weight for such vehicle or the Federal Bridge Formula in the absence of a manufacturer's gross vehicle weight rating. For those vehicles registered pursuant to § 2152 of this title, the actual gross weight of the vehicle, or each vehicle in combination, shall not exceed the manufacturer's gross vehicle weight rating. For those vehicles registered for extra weight capacity pursuant to the exception of § 4502(c)(2) of this title, the following shall apply:

(1) Vehicles registering for such extra weight capacity shall pay a fee of $100 per vehicle at the time of registration;

(2) No vehicle with a manufacturer's gross vehicle weight rating of less than 65,000 shall be registered at a weight in excess of the manufacturer's gross vehicle weight rating for such vehicle;

(3) No vehicle being registered for the first time shall be registered at a weight in excess of the manufacturer's gross vehicle weight rating for such vehicle;

(4) No vehicle with a model year 20 or more years prior to the date of registration shall be registered at a weight in excess of the manufacturer's gross vehicle weight rating for such vehicle; and

(5) Commencing June 15, 2022, no vehicle shall be registered at a weight in excess of the manufacturer's gross vehicle weight rating for such vehicle.

(e) If registered pursuant to § 2152 of this title, any vehicle which has a gross weight rating in excess of 26,000 pounds shall not be operated within this State unless such vehicle is properly registered pursuant to this section and either:

(1) Has permanently affixed to it an unaltered and legible plate, sticker or plaque which states the gross vehicle weight rating; or

(2) Has within the vehicle the manufacturer's gross vehicle weight rating documentation required by subsection (b) of this section.

(f) Any vehicle altered so as to change its gross vehicle weight rating or substantially change its use shall not be registered or operated within this State unless the vehicle's new gross weight rating is documented in accordance with subsection (b) of this section.

(g) If the gross vehicle weight rating for a vehicle registered pursuant to this section is documented in accordance with paragraph (b)(2) or (3) of this section, the Division of Motor Vehicles shall maintain such documentation of the manufacturer's gross vehicle weight rating as part of such vehicle's title file.

(67 Del. Laws, c. 400 § 1; 68 Del. Laws, c. 366 § 2; 69 Del. Laws, c. 3 § 1; 69 Del. Laws, c. 4 § 1; 70 Del. Laws, c. 339 §§ 1-3; 71 Del. Laws, c. 128 §§ 1, 2; 75 Del. Laws, c. 190 §§ 1, 2; 77 Del. Laws, c. 189 § 1; 77 Del. Laws, c. 244 § 1; 77 Del. Laws, c. 316 § 1.)

## § 2106 Registration of vehicle and owner; records.

The Department shall file each application received and, when satisfied as to the genuineness and regularity thereof and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in suitable books or in data processing computers under:

(1) A distinctive registration number assigned to the vehicle hereinafter referred to as the registration number, which may consist of a numerical figure or figures or of a letter or letters with a numerical figure or figures;

(2) The name of the owner;

(3) The vehicle identification number and, in the discretion of the Division, in any other method it determines.

(36 Del. Laws, c. 10 § 9; Code 1935 § 5547; 43 Del. Laws, c. 244 § 4; 21 Del. C. 1953 § 2106; 58 Del. Laws, c. 59.)

## § 2107 Registration card; issuance; information thereon.

(a) The Department upon registering a vehicle shall issue a registration card and deliver it to the owner.

(b) The registration card shall contain the date issued, the name and address of the owner, the registration number assigned to the vehicle, such description of the vehicle as may be determined by the Secretary, the period for which the vehicle is registered, a form for endorsement of notice to the Department upon transfer of the vehicle and a space in which the signature of the owner shall be placed to validate the card.

(c) This section shall be exempt from the provisions of § 2116 of this title.

(36 Del. Laws, c. 10 § 10; Code 1935 § 5548; 43 Del. Laws, c. 244 § 5; 21 Del. C. 1953 § 2107; 57 Del. Laws, c. 670 § 8A; 58 Del. Laws, c. 239 § 52; 65 Del. Laws, c. 113 §§ 1, 2.)

## § 2108 Possession of registration card.

The registration card issued for a vehicle required to be registered under this title shall at all times, while the vehicle is being operated upon a highway within this State, be in the possession of the operator thereof or carried in the vehicle and subject to inspection by any peace officer. However, an operator shall be allowed 24 hours to produce the registration card before a conviction can be obtained under

this provision, such registration having been legally issued at a time prior to such operator's arrest.

(36 Del. Laws, c. 10 § 11; Code 1935 § 5549; 21 Del. C. 1953 § 2108; 62 Del. Laws, c. 190 § 6; 70 Del. Laws, c. 186 § 1.)

## § 2109 Period of registration; effective date.

(a) Any vehicle described in § 2151 of this title may be registered for 24 months, 12 months or 6 months and the effective date of the registration shall be the date the vehicle is titled. Any used vehicle not more than 5 model years old may be registered from 6 to 48 months based on a model year and mileage formula established by the Division of Motor Vehicles. The Division of Motor Vehicles may require vehicles to be registered for less than 24 months as may be necessary to ensure a balanced monthly distribution of vehicle inspections and registrations; all fees shall be prorated. The registration of a vehicle shall expire at midnight on the last day of the period for which it is registered, and the vehicle shall not thereafter be operated upon the highways of this State until it has been reregistered according to law. This section shall not apply to the vehicles registered under the International Registration Plan or to vehicles registered under temporary or limited permits or certificates as otherwise provided by this title.

(b) The owner of any semitrailer or trailer who wishes to match that vehicle's license plate expiration with the towing vehicle's license plate expiration may register such semitrailer or trailer for a period of from 1 to 12 months. In addition to the registration fee, which shall be prorated for the number of months registered, there shall be a service fee of $3.00. This subsection shall not apply to those vehicles which are under a fleet account as specified in § 2143(c) of this title.

(c) Notwithstanding subsections (a) and (b) of this section, any newly-manufactured current model year motor vehicle or trailer with a gross registered weight of 10,000 pounds or less not previously registered or titled in any state or country may be initially registered by the owner for 5 years or less. Newly-manufactured previous model year motor vehicles or trailers having the above criteria may initially be registered for 4 years or less by a prorated formula established by the Division of Motor Vehicles. The effective date of registration shall be the date the vehicle is titled. The registration fee shall be the number of years selected multiplied by the annual registration fee. Thereafter, the registration shall be renewed pursuant to § 2110 of this title.

(d) In calculating the prorated fees or combined annual fees payable pursuant to this section, the fees shall be calculated using the rates in effect or scheduled to be in effect during the period of the prorated or extended registration.

(36 Del. Laws, c. 10 § 14; Code 1935 § 5552; 45 Del. Laws, c. 287 § 1; 21 Del. C. 1953 § 2109; 57 Del. Laws, c. 271 § 1; 58 Del. Laws, c. 365 §§ 1, 2; 60 Del. Laws, c. 382 §§ 1, 2; 65 Del. Laws, c. 330 § 1; 66 Del. Laws, c. 91 § 1; 67 Del. Laws, c. 411 §§ 1, 2; 68 Del. Laws, c. 123 § 1; 68 Del. Laws, c. 156 § 56(e); 70 Del. Laws, c. 88 § 1; 72 Del. Laws, c. 18 §§ 1, 2.)

## § 2110 Renewal of registration; new card and plate; cancellation of renewal by owner prior to effective date.

(a) Prior to the expiration of the period for which a vehicle is registered pursuant to § 2109 of this title, the registration may be renewed to extend from the date of expiration for an additional period of 6 months or 1 year or 2 years, and the effective date of the renewed registration shall be based on the calendar day the vehicle was titled. Vehicles no more than 5 model years old may be renewed for up to 48 months based on a prorated model year formula established by the Division of Motor Vehicles.

Any time prior to the expiration of the period for which a vehicle is registered with a commercial, trailer or farm truck license plate, the registration thereof may be renewed to extend from the date of expiration for an additional period of 3 months, 6 months, 1 year or 2 years.

(b) Upon renewing the registration of any vehicle or upon reregistering any vehicle, the Department shall furnish a new registration plate or plates showing the new registration period or the expiration date thereof and shall issue a new registration card or appropriately endorse the new registration period on the original card.

(c) A renewal registration of a vehicle for an additional period to take effect at the expiration of the registration thereof may be canceled on application to the Secretary at any time before the renewal registration is to take effect, and thereupon the Secretary shall refund to the owner the registration fee so paid for such renewal registration upon the receipt for cancellation by the Secretary for any such renewal registration card or registration plates, or both, issued pursuant to such renewal and otherwise cancel any endorsement of such renewal entered on the original card.

(d) Notwithstanding the provisions of subsections (a), (b) and (c) of this section, the registration of any trailer with a gross registered weight of 4,000 pounds or less and for which the annual safety inspection is waived may be renewed for 3 years, at the option of the owner. If this option is selected, the registration fee shall be 3 times the annual registration fee.

(e) In calculating the prorated fees or combined annual fees payable pursuant to this section, the fees shall be calculated using the rates in effect or scheduled to be in effect during the period of the prorated or extended registration.

(36 Del. Laws, c. 10 § 14; Code 1935 § 5552; 45 Del. Laws, c. 287 § 1; 21 Del. C. 1953 § 2110; 57 Del. Laws, c. 271 § 2; 57 Del. Laws, c. 670 § 8A; 58 Del. Laws, c. 365 § 3; 66 Del. Laws, c. 91 § 2; 67 Del. Laws, c. 411 §§ 3, 4; 68 Del. Laws, c. 123 § 2; 68 Del. Laws, c. 156 § 56(f); 70 Del. Laws, c. 88 § 1; 72 Del. Laws, c. 18 § 3.)

## § 2111 Duplicate registration cards.

In the event that any registration card issued under this title is lost, mutilated or becomes illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the Department and upon payment of the required fees.

(36 Del. Laws, c. 10 § 19; Code 1935 § 5557; 21 Del. C. 1953 § 2111.)

## § 2112 Registration by nonresidents.

(a) A nonresident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current registration year in the state, country or other place of which the owner is a resident and which at all times, when operated in this State, has displayed upon it the number plate or plates issued for any such vehicle in the place of residence of such owner may operate or permit the operation of such vehicle within this State without registering such vehicle or paying any fees to this State.

(b) Motor vehicles owned and controlled by nonresidents of this State, who are residents or citizens of foreign nations, and the drivers and operators thereof shall be accorded the free use of the highways of this State without restriction by way of license or registration and without the imposition of any tax or fee. This subsection shall not apply to vehicles owned or controlled by residents or citizens of foreign nations and drivers and operators thereof when such foreign nations do not extend similar privileges to the residents of the United States.

(c) A nonresident owner, operator or custodian of any motor vehicle, vehicle or trailer using such vehicle for transportation of persons or property for compensation within this State or for the transportation of merchandise within this State shall register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this State.

(d) The requirements of subsection (c) of this section may be waived by the Department of Transportation for vehicles registered in those jurisdictions which reciprocate with vehicles registered in this State.

(e) The Secretary shall enforce this title and shall have the power to suspend the operating privilege of all, a class or a part of any class of motor vehicles or trailers or semitrailers registered in another jurisdiction when, in the Secretary's judgment, any such jurisdiction prohibits the free operation therein of a class or part of any class of motor vehicles or trailers or semitrailers belonging to residents of this State and which have been properly registered in accordance with the laws of this State. The Secretary shall also have power to suspend for violation of any of the provisions of this title, or on other reasonable grounds, the operating privilege of any motor vehicle or trailer or semitrailer belonging to a nonresident. In suspending any such operating privilege, the Secretary shall notify the official or body performing the registration duty in the jurisdiction in which the nonresident resides of such action. If any such motor vehicle or trailer or semitrailer whose operating privilege has been suspended shall thereafter be driven in this State, such driving shall constitute a violation of § 2115(1) of this title, and the driver of any such vehicle shall be subject to the penalty prescribed in § 2116. The Secretary shall also have the power to impound the vehicle in violation until the fees imposed under § 402 of this title have been paid to the Department. Any impoundment fees or towing fees incurred as a result of a violation of this section shall be at the registered owner's expense.

(f)(1) A motor vehicle lessor may include separately stated mandatory charges in a rental agreement, including, but not limited to, vehicle licensing recovery fees, airport access fees, airport concession fees and all applicable taxes.

(2) If a motor vehicle lessor includes a vehicle licensing recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the motor vehicle lessor's good-faith estimate of the motor vehicle lessor's average cost per vehicle of the motor vehicle lessor's total Delaware annual titling and registration costs incurred under this chapter.

(3) If the total amount of vehicle licensing recovery fees collected by the motor vehicle lessor under this section in any calendar year exceeds the motor vehicle lessor's actual costs to license, title, register, and plate rental vehicles for that calendar year, the motor vehicle lessor shall do the following:

a. Retain the excess amount; and

b. Adjust the estimated average per vehicle titling and registration charges for the following year by a corresponding amount.

(4) As used in this subsection:

a. "Motor vehicle" means that term as defined in § 101 of this title.

b. "Motor vehicle lessor" means a person whose primary business is renting motor vehicles to consumers under rental agreements for periods of 90 days or less.

c. "Vehicle licensing recovery fee" means a charge that may be included in a vehicle rental transaction originating in this State to recover costs incurred by a motor vehicle lessor to license, title, register, and plate rental vehicles.

(34 Del. Laws, c. 15; 36 Del. Laws, c. 10 § 18; Code 1935 § 5556; 42 Del. Laws, c. 168 § 4; 21 Del. C. 1953 § 2112; 60 Del. Laws, c. 597 § 1; 64 Del. Laws, c. 339 § 3; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 40; 79 Del. Laws, c. 167 § 1.)

## § 2113 Special farm vehicle registration.

Farmers may register vehicles for farm use in the following manner:

(1) Farm truck, semitrailer, and trailer license plates ("FT" tags):

a. Farmers may qualify for the reduced registration fee for "FT" license tags if they derive at least $1,000 of their annual income from the operation of their farm and they own or rent at least 10 acres which is actively used in the farming operation from which they derive that income.

b. Any vehicle, semitrailer or trailer upon which an "FT" license tag is affixed must be used exclusively in the operation of a farm or for personal use other than nonfarming commercial use.

c. Farmers shall not hire or rent the farm truck, semitrailer, or trailer, or permit a farm truck, semitrailer, or trailer to be used for hauling merchandise, farm products, or other items whatsoever under rent, hire, or for pay.

d. [Repealed.]

(2) Farm vehicle license plates ("FV" tags) exempt from inspection:

a. Except as hereinafter provided, after October 7, 2014, no person shall operate any farm vehicle within the State unless such vehicle has been registered in accordance with this chapter. Such registration shall not permit the vehicle to be operated on any

highway except as hereinafter specifically provided. This registration is for identification only and does not constitute being "registered" in this State, for purposes of § 2118 of this title, or any other requirement of this chapter.

b. Farmers may qualify for an inspection waiver for a farm motor vehicle, farm vehicle, or farm trailer if they derive at least $1,000 of their annual income from the operation of their farm and they own or rent at least 10 acres which are actively used in the farming operation from which they derive that income.

c. Any vehicle or trailer upon which a "FV" tag is affixed must be used exclusively in the operation of a farm, or for personal use other than nonfarming commercial use.

d. No farm motor vehicle, farm vehicle, or farm trailer may be used for hire or for any use except in the exclusive operation of a farm owned or rented by the owner of such vehicle or trailer, or in aid of and assistance to another farmer for harvest purposes.

e. Farmers shall not hire or rent any farm motor vehicle, farm vehicle, or farm trailer, or permit a farm motor vehicle, farm vehicle, or farm trailer to be used for hauling merchandise, farm products, or other items whatsoever under rent, hire, or for pay.

f. Farmers shall not use any vehicle or trailer upon which an "FV" tag is affixed for any use except in the operation of a farm owned or rented by the titled owner of such vehicle or trailer or in aid of and assistance to another farmer for harvest purposes, or for personal use other than nonfarming commercial use.

g. No farm motor vehicle, farm vehicle, or farm trailer to which an "FV" tag is affixed may be operated or towed upon the public highways or roads unless:

1. Those highways and roads are within a 20-mile radius of a farm owned or managed by the owner of the vehicle or trailer;

2. The vehicle or trailer is operated or towed by a person who is properly licensed by the Division of Motor Vehicles;

3. The vehicle or trailer is properly equipped with a stop light, turn signals and brakes which are in a safe operating condition.

(Code 1935 § 5640B; 47 Del. Laws, c. 255 § 2; 21 Del. C. 1953 § 2113; 60 Del. Laws, c. 500 §§ 1, 2; 63 Del. Laws, c. 289 § 1; 68 Del. Laws, c. 300 § 1; 69 Del. Laws, c. 21 § 1; 70 Del. Laws, c. 2 § 1; 73 Del. Laws, c. 173 § 1; 74 Del. Laws, c. 383 § 1; 77 Del. Laws, c. 244 § 2; 79 Del. Laws, c. 104 § 1; 79 Del. Laws, c. 210 § 1.)

## § 2113A Low-speed vehicles.

(a) Definition. — "Low-speed vehicle" means a 4-wheeled motor vehicle, other than a truck, whose speed attainable in 1 mile is more than 20 miles per hour but no more than 25 miles per hour on a paved level surface. The low-speed vehicle shall be limited to a gross vehicle weight rating (GVWR) of less than 2,500 pounds.

(b) Operation of low-speed vehicles. — Low-speed vehicles shall only be operated on roads where the posted speed limit is not more than 35 miles per hour. A low-speed vehicle may cross a highway at an intersection where the highway has a posted speed limit of more than 35 miles per hour. Low-speed vehicles shall not be operated on dual highways, as defined in § 135 of Title 17 and located in the unincorporated portions of the State, except as needed to cross them. Low-speed vehicles may be operated on such dual highways within incorporated cities and towns if the respective municipal government enacts an ordinance permitting such movement, subject to the other limitations of this section. All low-speed vehicles shall meet the requirements of 49 C.F.R. § 571.500.

(c) Driver's license requirement. — All persons operating a low-speed vehicle on the highways of this State shall hold a valid driver's license.

(d) Safety inspections. — Low-speed vehicles shall be exempt from Delaware's safety inspection. Division of Motor Vehicles personnel will verify the vehicle identification number on those vehicles titled in another jurisdiction, which are being titled in Delaware for the first time. A fee of $15 shall be charged for Division of Motor Vehicles technicians to perform offsite vehicle identification number verification. Upon registration and renewal of a low-speed vehicle's registration, the owner shall certify, under penalty of perjury, that all lights, brakes, tires, seat belts and other vehicle equipment are in good working condition.

(e) Insurance. — Low-speed vehicles shall be required to maintain insurance as required by § 2118 of this title. Delaware automobile insurance companies may provide automobile insurance on these vehicles at their option. These automobile insurance companies shall not be mandated to provide insurance on low-speed vehicles by regulation or law.

(f) Title and registration. —

(1) Low-speed vehicles shall be titled as specified in Chapters 23 and 25 of this title. The manufacturer's certificate of origin and Delaware title shall clearly identify the vehicle as a low-speed vehicle. The Division shall not issue vehicle identification numbers to homemade low-speed vehicles or retrofitted golf carts unless these vehicles meet all of the requirements of the Federal Motor Vehicle Safety Standard, 49 C.F.R. § 571.500. Normal title and document fees shall be charged to register a low-speed vehicle in Delaware.

(2) Registration fees shall be the same as a normal passenger vehicle as defined in § 2151(2) of this title. Registration periods shall comply with §§ 2109 and 2110 of this title. A regular license plate shall be displayed on the rear of the vehicle.

(g) Dealer requirements. — Any person engaged in the retail sale of low-speed vehicles must be licensed by the Division of Motor Vehicles as a licensed motor vehicle dealer, must comply with all of the requirements of Chapter 63 of this title, and must meet all Division of Motor Vehicles rules and regulations.

(h) Whoever violates this section shall for the first offense be fined not less than $50 nor more than $100. For each subsequent like offense, the person shall be fined not less than $100 nor more than $200, or imprisoned not less than 10 days nor more than 30 days or both .

(76 Del. Laws, c. 10 § 1.)

## § 2114 Suspension of registration upon notice of theft.

Whenever the owner of any motor vehicle, trailer or semitrailer, which has been stolen or embezzled, files an affidavit of the fact thereof with the Department, the Department shall forthwith suspend the registration of such vehicle and shall not transfer the title of or reregister the vehicle until it has been notified that the owner has recovered such vehicle. The notice shall be effective for the current registration period, but, if during that time the vehicle is not recovered, a new affidavit to like effect may be filed with the Department, and the notice shall be effective for a further period of 12 months. Thereafter like notices may be given effective from year to year. Every owner who has filed an affidavit of theft or embezzlement shall immediately notify the Department of the recovery of such vehicle, and failure so to do within 30 days after such recovery shall be punished as provided in § 2116 of this title.

(36 Del. Laws, c. 10 § 20; Code 1935 § 5558; 43 Del. Laws, c. 244 § 11; 21 Del. C. 1953 § 2114.)

## § 2115 Violations of registration provisions.

No person shall:

(1) Operate or, being the owner of any motor vehicle, trailer or semitrailer, knowingly permit the operation upon a highway of any motor vehicle, trailer or semitrailer which is not registered or which does not have attached thereto and displayed thereon the number plate or plates assigned thereto by the Department and unexpired registration plate or plates, subject to the exemptions allowed in this title, or under temporary or limited permits as otherwise provided by this title;

(2) Display or cause or permit to be displayed or have in possession any registration card, number plate or registration plate, knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;

(3) Lend to, or knowingly permit the use by, one not entitled thereto any registration card, number plate or registration plate issued to the person so lending or permitting the use thereof;

(4) Fail or refuse to surrender to the Department upon demand any registration card, number plate or registration plate which has been suspended, canceled or revoked as provided in this title;

(5) Use a false or fictitious name or address in any application for the registration or inspection of any vehicle, or for any renewal or duplicate thereof, or for any certificate or transfer of title, or knowingly make a false statement, knowingly conceal a material fact or otherwise commit a fraud in any such application;

(6) Drive or move or, being the owner, cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or which is equipped in any manner in violation of this title, but the provisions of this title with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable;

(7) Own or operate any qualified motor vehicle as defined under the International Registration Plan, as authorized in Chapter 4 of this title, not properly displaying an apportioned plate with required registration credentials, or operate a qualified motor vehicle without having in that person's possession a trip permit registration as authorized in § 2103(6) of this title. Any person who violates this subsection shall, for the first offense, be fined not less than $115 nor more than $345, and for each subsequent offense not less than $345 nor more than $575. In addition, such person shall also be fined in an amount which is equal to the cost of registering the vehicle at its gross weight at the time of the offense or at the maximum legal limit, whichever is less, which fine shall be suspended if, within 5 days of the offense, the court is presented with a valid registration card for the gross weight at the time of the offense or the maximum legal limit for such vehicle.

(8) Operate or tow any farm vehicle upon the highways or roads of this State unless properly licensed by the Department, or being the owner of any farm vehicle knowingly permit the operation or towing of any farm vehicle upon the highways or roads of this State unless operated or towed by a person who is properly licensed by the Department, whether or not the farm vehicle is registered, or is exempt from inspection and registration pursuant to § 2113 of this title;

(9) Do any act forbidden or fail to perform any act required under this chapter.

(36 Del. Laws, c. 10 § 25; 40 Del. Laws, c. 38 § 10; Code 1935 § 5563; 43 Del. Laws, c. 244 § 14; 21 Del. C. 1953 § 2115; 49 Del. Laws, c. 220 § 21; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 202 § 2; 73 Del. Laws, c. 173 § 2.)

## § 2116 Penalties.

(a) Whoever violates this chapter shall, for the first offense, be fined not less than $10 nor more than $100 or be imprisoned not less than 30 days nor more than 90 days or both. For each subsequent like offense, the person shall be fined not less than $50 nor more than $200 or imprisoned not less than 90 days nor more than 6 months or both, in addition to which any person, being the operator or owner of any vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle and any load thereon shall be fined at a rate double that which is set forth in this subsection and be imprisoned as provided herein or both. In addition, such person shall also be fined in an amount which is equal to the cost of registering the vehicle at its gross weight at the time of the offense or at the maximum legal limit, whichever is less; which fine shall be suspended, if within 5 days of the offense the court is presented with a valid registration card for the gross weight at the time of the offense for the maximum legal limit for such vehicle.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, whoever violates § 2115(1)-(5) of this title shall, for the first offense, be fined not less than $50 nor more than $200, be imprisoned not less than 30 days nor more than 90 days, or be penalized by both

fine and imprisonment. For each subsequent like offense, such person shall be fined not less than $100 nor more than $300, be imprisoned not less than 90 days nor more than 6 months, or be penalized by both fine and imprisonment.

(2) Any owner or operator of a vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle, and any load thereon, and who violates § 2115(1)-(5) of this title, shall be fined at a rate double that which is set forth in this subsection, or be imprisoned as provided herein, or be both fined and imprisoned. In addition, such person shall also be fined an amount which is equal to the costs of registering the vehicle either at its gross weight at the time of the offense, or at the maximum legal limit, whichever is less. Such fine shall be suspended if, within 5 days of the offense, the court is presented with a valid registration card for the actual gross weight of the vehicle at the time of the offense.

(c) This section shall not apply to violations for which a specific punishment is set forth elsewhere in this chapter.

(d) For any violation of the registration provisions of § 2102 or § 2115 of this title and in absence of any traffic offenses relating to driver impairment, the violator's copy of the traffic summons shall act as that violator's authority to drive the vehicle involved by the most direct route from the place of arrest to either the violator's residence or the violator's current place of abode.

(36 Del. Laws, c. 10 § 32; 37 Del. Laws, c. 10 §§ 10, 11; Code 1935 § 5570; 21 Del. C. 1953 § 2116; 59 Del. Laws, c. 332 §§ 1, 2; 64 Del. Laws, c. 207 § 2; 69 Del. Laws, c. 307 §§ 1, 3, 4.)

## § 2117 Refunds of fees paid for certain unused registrations.

Upon the surrender to the Department of the number plates or plate issued for a vehicle registered under this title, and the furnishing of proof satisfactory to the Secretary and the State Treasurer that (1) the owner of the vehicle entered the armed forces of the United States after such vehicle was registered or (2) that the owner of such vehicle is 65 years of age or older and that the owner voluntarily surrendered such owner's operator's license following the attainment of such age and the registration or reregistration of such vehicle, and that the registration of such vehicle is in full effect, there shall be refunded to such owner, from the General Fund of this State, from funds not otherwise appropriated, a sum equal to as many twelfths of the fee paid for the registration of the vehicle as there are full calendar months in the registration year following the date of the receipt of the number plates or plate, less the sum of $1.00.

(21 Del. C. 1953 § 2117; 57 Del. Laws, c. 632; 70 Del. Laws, c. 186 § 1.)

## § 2118 Requirement of insurance for all motor vehicles required to be registered in this State; penalty.

(a) No owner of a motor vehicle required to be registered in this State, other than a self-insurer pursuant to § 2904 of this title, shall operate or authorize any other person to operate such vehicle unless the owner has insurance on such motor vehicle providing the following minimum insurance coverage:

(1) Indemnity from legal liability for bodily injury, death or property damage arising out of ownership, maintenance or use of the vehicle to the limit, exclusive of interest and costs, of at least the limits prescribed by the Financial Responsibility Law of this State.

(2)a. Compensation to injured persons for reasonable and necessary expenses incurred within 2 years from the date of the accident for:

1. Medical, hospital, dental, surgical, medicine, x-ray, ambulance, prosthetic services, professional nursing and funeral services. Compensation for funeral services, including all customary charges and the cost of a burial plot for 1 person, shall not exceed the sum of $5,000. Compensation may include expenses for any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

2. Net amount of lost earnings. Lost earnings shall include net lost earnings of a self-employed person.

3. Where a qualified medical practitioner shall, within 2 years from the date of an accident, verify in writing that surgical or dental procedures will be necessary and are then medically ascertainable but impractical or impossible to perform during that 2-year period, the cost of such dental or surgical procedures, including expenses for related medical treatment, and the net amount of lost earnings lost in connection with such dental or surgical procedures shall be payable. Such lost earnings shall be limited to the period of time that is reasonably necessary to recover from such surgical or dental procedures but not to exceed 90 days. The payment of these costs shall be either at the time they are ascertained or at the time they are actually incurred, at the insurer's option.

4. Extra expenses for personal services which would have been performed by the injured person had they not been injured.

5. "Injured person" for the purposes of this section shall include the personal representative of an estate; provided, however, that if a death occurs, the "net amount of lost earnings" shall include only that sum attributable to the period prior to the death of the person so injured.

b. The minimum insurance coverage which will satisfy the requirements of subparagraph a. of this paragraph is a minimum limit for the total of all payments which must be made pursuant to that subparagraph of $15,000 for any 1 person and $30,000 for all persons injured in any 1 accident.

c. The coverage required by this paragraph shall be applicable to each person occupying such motor vehicle and to any other person injured in an accident involving such motor vehicle, other than an occupant of another motor vehicle.

d. The coverage required by this paragraph shall also be applicable to the named insureds and members of their households for accidents which occur through being injured by an accident with any motor vehicle other than a Delaware insured motor vehicle while a pedestrian or while occupying any registered motor vehicle other than a Delaware registered insured motor vehicle, in any state of the United States, its territories or possessions or Canada.

e. The coverage required in this paragraph shall apply to pedestrians only if they are injured by an accident with any motor vehicle within the State except as to named insureds or members of their households to the extent they must be covered pursuant to paragraph (a)(2)d. of this section.

f. The owner of a vehicle may elect to have the coverage described in this paragraph written subject to certain deductibles, waiting periods, sublimits, percentage reductions, excess provisions and similar reductions offered by insurers in accordance with filings made by such insurers with the Department of Insurance; applicable to expenses incurred as a result of injury to the owner of a vehicle or members of the owner's household; provided that the owner of a motorcycle may elect to exclude from such coverage expenses incurred as a result of injury to any person riding such vehicle while not on a highway and in any case of injury when no other vehicle was involved by actual collision or contact. This election must be made in writing and signed by the owner of the vehicle; insurers issuing such policies may not require such reductions. For all policies having a deductible pursuant to this paragraph the insured shall receive in writing as a separate document a full explanation of all deductible options available, and the insured shall sign such written explanation acknowledging receipt of a copy of same. In addition the insured shall sign a separate statement acknowledging the specific deductible the insured is selecting and the related cost for the policies with such deductible. An insured person may not plead and introduce into evidence in an action for damages against a tortfeasor the amount of the deductible; however, insurers shall recover any deductible for their insureds or their household members pursuant to subsection (g) of this section. Any notices or documents required under this section may be delivered in compliance with the provisions of § 107 of Title 18.

g. The coverage required by this paragraph shall be considered excess over any similar insurance for passengers, other than Delaware residents, when the accident occurs outside the State.

h. Insurers shall notify injured persons covered under this section that the coverage is for 2 years from the date of the accident, and that it is only extended for compensation related to surgical or dental procedures that are related to the accident and that were impossible or impractical to perform within the 2-year period. Such surgical or dental procedures must be verified in writing, within 2 years of the accident, by a qualified medical practitioner.

i.1. Expenses under paragraph (a)(2)a. of this section shall be submitted to the insurer as promptly as practical, in no event more than 2 years after they are received by the insured.

2. Payments of expenses under paragraph (a)(2)a. of this section shall be made as soon as practical after they are received during the period of 2 years from the accident. Expenses which are incurred within the 2 years but which have been impractical to present to an insurer within the 2 years shall be paid if presented within 90 days after the end of the 2-year period.

(3) Compensation for damage to property arising as a result of an accident involving the motor vehicle, other than damage to a motor vehicle, aircraft, watercraft, self-propelled mobile equipment and any property in or upon any of the aforementioned, with the minimum limits of $10,000 for any 1 accident.

(4) Compensation for damage to the insured motor vehicle, including loss of use of the motor vehicle, not to exceed the actual cash value of the vehicle at the time of the loss and $10 per day, with a maximum payment of $300, for loss of use of such vehicle.

The owner of the motor vehicle may elect to exclude, in whole or in part, the coverage described in this paragraph by the use of certain deductibles and exclusions in accordance with filings made by the insurer with the Department of Insurance.

(b) No owner of a motor vehicle being operated in this State shall operate in this State, or authorize any other person to operate such vehicle in this State, unless the owner has insurance on such motor vehicle equal to the minimum insurance required by the state or jurisdiction where said vehicle is registered. If the state or jurisdiction of registration requires no minimum insurance coverage, then such owner must have insurance on such motor vehicle equal to the minimum insurance coverage required for motor vehicles registered in this State. However, an owner shall not be convicted under this subsection if, prior to conviction, the owner shall produce to the court in which the offense is to be tried the insurance identification card or in lieu thereof other sufficient proof of insurance showing such insurance to be in full force and effect at all pertinent times when the motor vehicle was being operated in this State. The Justice of the Peace Court may permit an operator charged under this subsection to provide proof of insurance to the Court by mail or facsimile transmission in lieu of a personal appearance. Proof of insurance shall be as prescribed by the Court and shall be sent to the Court directly from the operator's insurer or the insurer's agent or broker. It shall be the responsibility of the operator to ensure that proof of insurance is received and accepted by the Court. When proof of insurance is sent by mail or fax, the Court may also accept a guilty plea by mail or fax for any accompanying charge for which a voluntary assessment is permitted under § 709(e) of this title. A guilty plea so accepted shall have the same force and effect as if the operator had made the plea in open court. The Justice of the Peace Court shall enact court rules to implement the handling of such cases by mail or facsimile transmission. Where proof of insurance is provided by facsimile, the operator's insurer or the insurer's agent or broker must confirm the information by mail and the Justice of the Peace Court must confirm by telephone that the facsimile was sent by the operator's insurer or the insurer's agent or broker.

(c) Only insurance policies validly issued by companies authorized to write in this State all the kinds of insurance embodied in the required coverages shall satisfy the requirements of this section.

(d) Nothing in this section shall be construed to prohibit the issuance of policies providing coverage more extensive than the minimum coverages required by this section or to require the segregation of such minimum coverages from other coverages in the same policy.

(e) Policies purporting to satisfy the requirements of this section shall contain a provision which states that, notwithstanding any of the

other terms and conditions of the policy, the coverage afforded shall be at least as extensive as the minimum coverage required by this section.

(f) The coverage described in paragraphs (a)(1)-(4) of this section may be subject to conditions and exclusions customary to the field of liability, casualty and property insurance and not inconsistent with the requirements of this section, except there shall be no exclusion to any person who sustains bodily injury or death to the extent that benefits therefore are in whole or in part either payable or required to be provided under any workers' compensation law.

(g) Insurers providing benefits described in paragraphs (a)(1)-(4) of this section shall be subrogated to the rights, including claims under any workers' compensation law, of the person for whom benefits are provided, to the extent of the benefits so provided.

(1) Such subrogated rights shall be limited to the maximum amounts of the tortfeasor's liability insurance coverage available for the injured party, after the injured party's claim has been settled or otherwise resolved, except that the insurer providing benefits shall be indemnified by any workers' compensation insurer obligated to make such payments to the injured party.

(2) Any settlement made with an injured party by a liability insurer shall not be challenged or disputed by any insurer having subrogated rights.

(3) Disputes among insurers as to liability or amounts paid pursuant to paragraphs (a)(1)-(4) of this section shall be arbitrated by the Wilmington Auto Accident Reparation Arbitration Committee or its successors. Any disputes arising between an insurer or insurers and a self-insurer or self-insurers shall be submitted to arbitration which shall be conducted by the Commissioner in the same manner as the arbitration of claims provided for in subsection (j) of this section.

(4) No insurer or self-insurer shall join or be joined in an action by an injured party against a tortfeasor for the recovery of damages by the injured party and/or the recovery of benefits paid by the insurer or self-insurer.

(5) Nothing contained herein shall prohibit a liability insurer from paying the subrogated claim of another insurer prior to the settlement or resolution of the injured party's claim. However, should the amount of such settlement or resolution, in addition to the amount of any subrogated claim, exceed the maximum amount for the tortfeasor's liability insurance coverage available for the injured party, then any insurer who has been paid its subrogated claim shall reimburse the tortfeasor's liability insurer that portion of the claim exceeding the maximum amount of the tortfeasor's liability insurance coverage available for the injured party.

(6) Unless specifically excepted by this subsection, this subsection shall also apply to self-insurers.

(h) Any person eligible for benefits described in paragraph (a)(2) or (3) of this section, other than an insurer in an action brought pursuant to subsection (g) of this section, is precluded from pleading or introducing into evidence in an action for damages against a tortfeasor those damages for which compensation is available under paragraph (a)(2) or (3) of this section without regard to any elective reductions in such coverage and whether or not such benefits are actually recoverable.

(i) Nothing in this section shall be construed to require an insurer to insure any particular risk. Nothing herein shall limit the insurer's obligation pursuant to the Delaware Automobile Plan.

(j) Every insurance policy issued under this section shall require the insurer to submit to arbitration, in the manner set forth hereinafter, any claims for losses or damages within the coverages required under paragraph (a)(2) of this section and for damages to a motor vehicle, including the insured motor vehicle, including loss of use of such vehicle, upon request of the party claiming to have suffered a loss or damages within the above-described coverages of paragraph (a)(2) of this section or to such a motor vehicle. Such request shall be in writing and mailed to the Insurance Commissioner.

(1) All arbitration shall be administered by the Insurance Commissioner or the Insurance Commissioner's nominee.

(2) The Insurance Commissioner or the Insurance Commissioner's nominee shall establish a panel of arbitrators consisting of attorneys authorized to practice law in the State and insurance adjusters licensed to act as such in the State.

(3) The Insurance Commissioner, or the Insurance Commissioner's nominee, shall select 3 individuals from the panel of arbitrators, at least 1 of whom shall be an attorney authorized to practice law in the State, to hear each request for arbitration.

(4) The Insurance Commissioner, or the Insurance Commissioner's nominee, shall promulgate all rules and regulations necessary to implement this arbitration program.

(5) The right to require such arbitration shall be purely optional and neither party shall be held to have waived any of its rights by any act relating to arbitration and the losing party shall have a right to appeal de novo to the Superior Court if notice of such appeal is filed with that Court in the manner set forth by its rules within 30 days of the date of the decision being rendered.

(6) The Insurance Commissioner shall establish a schedule of costs of arbitration; provided, however, the arbitrator's fee shall not exceed $25 per arbitrator for any 1 arbitration.

(7) The cost of arbitration shall be payable to the State Department of Insurance, and shall be maintained in a special fund identified as the "Arbitration Fund" which shall be administered by the Insurance Commissioner. These funds under no circumstances shall revert to the General Fund. All costs of arbitration including administrative expenses of the Insurance Department and the arbitrator's fee shall be payable from this Fund.

(8) The applicant may be reimbursed the cost of filing arbitration as a part of the award rendered by the arbitration panel. If an insurer should pay an applicant damages in advance of a hearing, they shall include with those damages the cost to the applicant of filing the arbitration.

(9) This subsection shall also apply to self-insurers.

(k) Every insurance company authorized to transact the business of motor vehicle liability insurance in this State shall file with the Insurance Commissioner as a condition of its continued transaction of such business within this State a form approved by the Insurance Commissioner stating that its motor vehicle liability policies, on Delaware registered vehicles wherever issued, shall be deemed to provide the insurance required by this section. A nonadmitted insurer may file such a form.

(l) A motor vehicle registration shall not be issued or renewed for any vehicle not covered by a vehicle insurance policy meeting the requirements of this title. All insurers shall send to the Division of Motor Vehicles notice, in written or electronic form per the direction of the Division, of any cancellations or terminations of private passenger automobile insurance under § 3904(a)(1) of Title 18 for any private passenger automobile policies which are final and occur within the first 6 months after such policies are issued. The Insurance Commissioner may further change the timeframe for notification by regulation. All insurers shall send notice to the named insured when a motor vehicle insurance policy is canceled pursuant to the provisions of § 3905 of Title 18.

(m) A motor vehicle owner shall, upon request of the Division of Motor Vehicles, offer proof of insurance in full force and effect as a condition of registration or continued registration of a motor vehicle. The Division of Motor Vehicles, upon proof from its records or other sufficient evidence that the required insurance has not been provided or maintained or has terminated or otherwise lapsed at any time, shall immediately suspend the registration of the uninsured vehicle. The registration shall remain suspended until:

(1) The required insurance is obtained or replaced and the vehicle owner submits evidence of insurance on a form prescribed by the Division of Motor Vehicles and certified by the insurer or its agent; and

(2) An uninsured motorist penalty fee is paid to the Division of Motor Vehicles.

(n)(1) Except as provided in subsection (p) of this section, within 5 days of the notice of suspension from the Division of Motor Vehicles, the owner will surrender to the Division of Motor Vehicles the vehicle's certificate of registration and the registration plate. If the owner fails to comply within the aforementioned 5 days, the Division of Motor Vehicles shall suspend the owner's driver's license.

(2) The Division of Motor Vehicles will promulgate rules and/or regulations to cover those circumstances in which there is an allegation of lost or stolen tags.

(3) Each insurer shall report to the Division of Motor Vehicles, within 30 days on a form prescribed by the Division of Motor Vehicles, the name of any person or persons involved in an accident or filing a claim who is alleged to have been operating a Delaware registered motor vehicle without the insurance required under this chapter. At a minimum, the insurer shall provide the name, address and description of the vehicle alleged to be uninsured. Each insurer shall take reasonable care when reporting potential violations of this section, but in no case shall an insurer, provider or any of its employees or agents incur any liabilities for erroneous reports of a violation.

(4) In addition to any other penalty provided for in the Delaware Motor Vehicle Law, if the required insurance for a vehicle terminates or otherwise lapses during its registration year, the Division of Motor Vehicles shall assess the owner of the vehicle with a penalty of $100 for each vehicle without the required insurance for a period of up to 30 days. When a penalty fee is assessed, beginning on the thirty-first day of the penalty period, the penalty fee shall increase by a rate of $5.00 for each subsequent day until the insurance is replaced, tags are surrendered to the Division of Motor Vehicles, or the registration expires, whichever occurs first. The Division of Motor Vehicles shall also charge a registration reinstatement fee of $50. When the Division of Motor Vehicles assesses a vehicle owner with a penalty under this subsection, the Division shall not reinstate a registration suspended under this section until the penalty is paid, and the owner has also paid a registration reinstatement fee of $50.

(o) "Insurance identification card" shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this State which states in such form as the Insurance Commissioner may prescribe or approve that such company has issued a vehicle insurance policy meeting the requirements of this title. If the insured and insurance company both consent, the insurance identification card may be produced in electronic format. Acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device. The Insurance Commissioner shall require all insurance companies transacting business within this State to provide with each vehicle insurance policy an insurance identification card describing the vehicle covered. The insurance identification card shall be valid for a period not to exceed 6 months. Notwithstanding this limitation, an insurance identification card may be issued for a period of 12 months if premium has been paid for the 12-month period. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer, the term "insurance identification card" shall mean a card issued by the Office of the Insurance Commissioner which evidences that such deposit has been filed or that such owner has so qualified.

(p)(1) The insurance identification card issued for a vehicle required to be registered under this title shall at all times, when the vehicle is being operated upon a highway within this State, be in the possession of the operator thereof or carried in the vehicle and shall be produced upon the request of a police officer or any other party involved in an accident with the insured. If the operator of a motor vehicle is unable to produce an insurance identification card at the time of a traffic stop or an accident the operator shall be issued a summons to appear in court. If the operator is convicted under this subsection and has not provided proof of insurance in effect as of the date of conviction, the court shall, in addition to any other penalties imposed, notify the Division of Motor Vehicles of the lack of insurance. The Division of Motor Vehicles shall promptly suspend the vehicle's registration pursuant to the provisions of subsection (m) of this section.

a. Presentation of proof of insurance in electronic format shall not constitute consent for law enforcement or other state officials to access other contents of the cellular phone or other portable electronic device, and shall not expand or restrict authority to conduct a search or investigation.

b. Law-enforcement officers and other state officials shall not be liable for any damage to a cellular phone or portable electronic

device resulting from its use to present satisfactory proof of motor vehicle liability insurance coverage.

c. A police officer may require the operator to electronically forward the proof of insurance to a specified location provided by the officer. The electronic insurance information would then be viewed in a setting which is safe for the officer to verify that all the information is valid and accurate.

(2) An operator shall not be convicted under this subsection if, prior to conviction, the operator shall produce to the court in which the offense is to be tried the insurance identification card or in lieu thereof other sufficient proof, including but not limited to an automobile, garage keeper's or other commercial or personal insurance policy, showing that there was insurance in full force and effect at all pertinent times covering or which would cover the said motor vehicle or the operation of the said motor vehicle by the operator charged under this subsection.

(3) Subject to paragraph (p)(2) of this section above, the Justice of the Peace Court may permit an operator charged under this subsection to provide proof of insurance to the Court by mail or facsimile transmission or other Court approved method in lieu of a personal appearance. Proof of insurance shall be as prescribed by the Court and shall be sent to the Court directly from the operator's insurer or the insurer's agent or broker. It shall be the responsibility of the operator to ensure that proof of insurance is received and accepted by the Court. When proof of insurance is accepted by the court by any means other than personal appearance, the Court may also accept a guilty plea in absentia for any accompanying charge for which a voluntary assessment is permitted under § 709(e) of this title. A guilty plea so accepted shall have the same force and effect as if the operator had made the plea in open court. The Justice of the Peace Court shall enact court rules to implement the handling of such cases by means other than personal appearance of the operator.

(4) Where the individual is charged with violating this section, and at the time of the alleged offense, the individual was operating a vehicle owned or leased by the individual's employer in the course and scope of the individual's employment, the individual shall not be convicted of violating this section unless the individual knew or should have known that the employer's vehicle failed to meet the requirement of this section.

(q)(1) The Division of Motor Vehicles shall annually select for verification on a random sample basis not less than 10% of vehicle registrations subject to the insurance required by this section. This verification will be made through the insurers as reflected in the Division's records.

(2) Any vehicle owner identified by the Division as a possible uninsured shall submit proof of insurance within 30 days of the Division's request for such proof, to the Division of Motor Vehicles on a form prescribed by the Division and certified by an insurer or agent.

(3) The failure of a vehicle owner to submit the required proof under this section within a 30-day period shall be prima facie evidence that the vehicle is uninsured and the owner shall be subject to the penalties as prescribed in subsections (l) and (m) of this section.

(4) With respect to any vehicle which has:

a. Had its registration suspended by the Division of Motor Vehicles pursuant to subsection (m) of this section,

b. Had transfer of custody of its license plate ordered by the Justice of the Peace Court pursuant to subsection (p) of this section, or

c. Failed to produce proof of insurance in a timely fashion pursuant to this subsection (q) of this section,

an officer of the Delaware State Police or member of the Department of Insurance's Fraud Prevention Bureau ("the Fraud Bureau") may confiscate the registration plate of that vehicle at any time absent affirmative proof that the vehicle is currently insured. Prior to any confiscation pursuant to this subsection, the registered owner of a vehicle shall receive notice at least 7 days prior to confiscation by regular and certified mail that such confiscation is to occur, and shall be provided a means to prove that the vehicle has current insurance prior to the indicated confiscation date. The Division of Motor Vehicles and the Justice of the Peace Court shall provide information to the Fraud Bureau and Delaware State Police sufficient to allow those organizations to enforce this subsection. Registration plates confiscated pursuant to this subsection shall be turned over to the Division of Motor Vehicles, which shall follow procedures established pursuant to and consistent with subsection (m) of this section for return of said plates. The Fraud Bureau shall provide its members with sufficient training to ensure safe enforcement of this subsection.

(r) In the event of a suspension of a driver's license pursuant to this section, the Department may issue an occupational license during a period of suspension upon application by the applicant upon a form prescribed by the Department and sworn to by the applicant; provided, that the applicant sets forth in said application that the suspension of such license has created an extreme hardship and that no prior occupational license has been issued within the preceding 12 months; provided, however, that no such occupational license shall be issued until the applicant demonstrates proof of liability insurance on all motor vehicles owned by such applicant or spouse. If the suspension of the driver's license resulted from the arrest and conviction of a person stemming from an incident in which property damage or personal injury occurred, an occupational license shall not be issued, the other provisions of this subsection to the contrary notwithstanding.

(s)(1) Whoever violates any subsection of this section shall be fined for the first offense not less than $1,500 nor more than $2,000 and shall have that person's driving license and/or privileges suspended for 6 months. For each subsequent offense occurring within 3 years of a former offense, that person shall be fined not less than $3,000 nor more than $4,000 and shall have that person's driver's license and/or driving privilege suspended for 6 months. The minimum fine levied for a violation of subsection (a), (b) or (p) of this section shall not be subject to suspension or avoidance for any reason, including the securing of insurance between the time of arrest and sentencing, if the person subject to such fines has been in violation for a period of 30 or more consecutive days unless such person affirmatively proves that

the insurer did not send notice to the named insured as required under subsection (l) of this section.

(2) Failure of the owner or operator to produce an insurance identification card for insurance which is in full force and effect at the time of the offense shall be presumptive evidence that such person is operating such person's vehicle without having insurance required by this title.

(3) Notwithstanding the penalties specified above, anyone convicted of driving without minimum insurance as required in this section shall have such person's privileges of driving suspended in this State until such time as such person has furnished proof of insurance to the Division of Motor Vehicles.

(t)(1) The Division of Motor Vehicles shall periodically select for verification of the required insurance all vehicles owned, individually or jointly, by a person who has been previously convicted of violating the provisions of this subchapter.

(2) The Division of Motor Vehicles may determine the accuracy of information relating to the proof of required insurance satisfying the provisions of this section.

(u)(1) The Division of Motor Vehicles may require evidence that any motor vehicle registered in a person's name, individually or jointly, is covered by the insurance required by this chapter, at a conference, hearing or interview:

a. As a result of point accumulation on the owner's motor vehicle driving record pursuant to the rules and regulations of the Division of Motor Vehicles; or

b. To show cause why the person's license should not be suspended or revoked pursuant to the laws of this State or the rules and regulations of the Division of Motor Vehicles.

(2) The Division of Motor Vehicles may require evidence that any vehicle registered in a person's name, individually or jointly, is covered by the insurance required by this chapter, at the time of reinstatement of driving privileges.

(3) The evidence of insurance shall be on a form prescribed by the Division of Motor Vehicles and certified by an insurer or its agent.

(4) Failure to submit the required proof under this section shall be prima facie evidence that any vehicle registered in that person's name, either individually or jointly, is uninsured and the owner shall be subject to the penalties as prescribed in subsections (l) and (m) of this section.

(v)(1) If a person has been issued an equipment inspection notice pursuant to § 2144 of this title, the person shall send within 30 days to the Division of Motor Vehicles the evidence of insurance or security required by this chapter on a form prescribed by the Division and certified by an insurer or agent.

(2) A failure to submit the evidence required by paragraph (v)(1) of this section shall result in the suspension of the registration of the vehicle cited and the assessment of the uninsured motorist penalty fee under this section.

(w) The Division of Motor Vehicle shall conduct a study or cause such study to be conducted to assess the feasibility and costs of establishing a direct computer link between the Division of Motor Vehicle's registration files and the insurance companies' data bases for the purposes of allowing the Division to conduct "real time" status reports of uninsured motorists. The Division of Motor Vehicles shall also conduct a study or cause such study to be conducted to analyze the ramifications of implementing an uninsured motorist program in the State similar to that of Virginia's Uninsured Motorist Program.

(x) Notwithstanding any contrary provisions of the Code, there shall be established a special fund of the State to be known as the D.M.V.T. Fund. The Secretary of Finance shall, commencing upon the effective date of this legislation, and commencing at the beginning of each fiscal year thereafter, cause to be deposited into the D.M.V.T. Fund amounts received as payments of fines and costs assessed by the Justice of the Peace Courts and/or the Court of Common Pleas under this section, until the amount deposited in said fiscal year shall equal $150,000.

(y) The purpose of the D.M.V.T. Fund is to provide for the administrative costs associated with this Act. Any balance in the D.M.V.T. Fund as of the last day of the fiscal year in excess of $15,000 shall be deposited to the General Fund. The Secretary of Finance shall make deposits to the D.M.V.T. Fund as required under this section commencing after August 1, 1995.

(z) The Director of the Division of Motor Vehicles may adopt such rules and regulations, not inconsistent with this title, as are necessary to enforce this section.

(21 Del. C. 1953 § 2118; 58 Del. Laws, c. 98 § 1; 58 Del. Laws, c. 353 § 1; 58 Del. Laws, c. 443; 59 Del. Laws, c. 179 §§ 1-3; 59 Del. Laws, c. 574 §§ 1, 3; 60 Del. Laws, c. 337 §§ 1, 2; 60 Del. Laws, c. 433 § 2; 61 Del. Laws, c. 66 § 1; 61 Del. Laws, c. 292 §§ 1-3; 61 Del. Laws, c. 320 § 1; 61 Del. Laws, c. 417 §§ 1, 2; 62 Del. Laws, c. 280 § 1; 63 Del. Laws, c. 149 § 1; 63 Del. Laws, c. 405 § 1; 64 Del. Laws, c. 198 §§ 1, 2; 64 Del. Laws, c. 356 § 1; 65 Del. Laws, c. 177 § 1; 65 Del. Laws, c. 324 § 1; 65 Del. Laws, c. 503 § 4; 67 Del. Laws, c. 177 §§ 1, 2; 68 Del. Laws, c. 331 §§ 1-4; 68 Del. Laws, c. 336 § 1; 69 Del. Laws, c. 116 § 3; 69 Del. Laws, c. 155 §§ 1, 2; 69 Del. Laws, c. 197 § 1; 69 Del. Laws, c. 413 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 247 §§ 1-3; 72 Del. Laws, c. 20 § 1; 72 Del. Laws, c. 58 §§ 1, 2; 72 Del. Laws, c. 219 § 1; 72 Del. Laws, c. 380 §§ 1, 2; 74 Del. Laws, c. 110 § 139; 74 Del. Laws, c. 400 § 1; 75 Del. Laws, c. 59 § 1; 76 Del. Laws, c. 128 § 1; 77 Del. Laws, c. 419 § 1; 78 Del. Laws, c. 247 § 2; 79 Del. Laws, c. 269 § 1.)

## § 2118A Unlawful possession or manufacture of proof of insurance, penalties.

(a) It shall be unlawful for any person to possess, manufacture, sell, distribute or circulate a fictitious insurance identification card or any fictitious proof of insurance. A fictitious insurance identification card shall be any document in written or electronic format not manufactured in compliance with § 2118(o) of this title. Fictitious proof of insurance shall be any document in written or electronic format not produced in compliance with § 2118(o) of this title.

(b) It shall also be unlawful for any person to possess, manufacture, sell, distribute or circulate a blank insurance identification card.

However, the following shall be exempt from this subsection: Office of the Insurance Commissioner, insurance companies or bonding companies or their employees or agents or employees of such agents in the discharge of their employment duties.

(c) Any person convicted of a violation of subsection (a) or (b) of this section shall be fined for the first offense not less than $500, nor more than $1500, or imprisoned not less than 30 days, nor more than 60 days, or both. For each subsequent violation, the person shall be fined not less than $1000, nor more than $2000, or be imprisoned not less than 60 days, nor more than 6 months, or both.

(68 Del. Laws, c. 406 § 1; 79 Del. Laws, c. 269 § 2.)

## § 2118B Processing and payment of insurance benefits.

(a) The purpose of this section is to ensure reasonably prompt processing and payment of sums owed by insurers to their policyholders and other persons covered by their policies pursuant to § 2118 of this title, and to prevent the financial hardship and damage to personal credit ratings that can result from the unjustifiable delays of such payments.

(b) When an insurer is notified in writing by the claimant that the claimant desires to file an initial claim for benefits pursuant to § 2118(a)(2) of this title, the insurer shall, no later than 10 days following the insurer's receipt of said notification, provide that claimant with a form for filing such a claim. For purposes of this subsection an insurer shall be deemed to have provided a claimant with a form for filing a claim when the insurer deposits such a form in an envelope addressed to such claimant with the United States Postal Service and with postage affixed for first class (or better) delivery. If an insurer fails to comply with the provisions of this subsection, the insurer shall pay the claimant a sum equal to 1 percent of the amount due as of the date on which the claim was required to be provided for each day beyond the prescribed period for compliance, not to exceed $5,000.

(c) When an insurer receives a written request for payment of a claim for benefits pursuant to § 2118(a)(2) of this title, the insurer shall promptly process the claim and shall, no later than 30 days following the insurer's receipt of said written request for first-party insurance benefits and documentation that the treatment or expense is compensable pursuant to § 2118(a) of this title, make payment of the amount of claimed benefits that are due to the claimant or, if said claim is wholly or partly denied, provide the claimant with a written explanation of the reasons for such denial. If an insurer fails to comply with the provisions of this subsection, then the amount of unpaid benefits due from the insurer to the claimant shall be increased at the monthly rate of:

(1) One and one-half percent from the thirty-first day through the sixtieth day; and

(2) Two percent from the sixty-first day through the one hundred and twentieth day; and

(3) Two and one-half percent after the one hundred and twenty-first day.

(d) If an insurer fails to comply with subsection (b) or (c) of this section, the claimant may recover the amount due through a civil action in any court of competent jurisdiction or through a Delaware Insurance Commissioner's Arbitration Proceeding, consistent with § 2118(j)(1)-(9) of this title, at the option of the claimant. Any judgment entered for a claimant in a civil action or arbitration proceeding brought under this section shall include, in addition to the amount due and any additional amount provided for by subsections (b) and (c) of this section, an award for the costs of the action and the prosecution of the action, including reasonable attorney's fees; provided, however, that the costs of the action and the prosecution of the action, including reasonable attorney's fees shall only be awarded if it is found that the insurer acted in bad faith. The burden of proving that the insurer acted in bad faith shall be on the claimant. Any sums other than the original claim paid under this subsection shall not reduce the amount of coverage available under the insurance policy that is the basis for the claim.

(e) If an action pursuant to subsection (d) of this section is not filed within 90 days of the date of denial or the date when benefits are due as provided for in subsection (c) of this section, the penalties prescribed in that subsection shall begin to run from the date of the filing of said action.

(f) The remedies provided by this section are in addition to all other remedies available to the claimant under state and federal statutory or common law.

(69 Del. Laws, c. 116 § 2; 69 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2119 Requirement of compliance for all commercial registrations by corporations and other legal entities.

(a) No vehicle shall be registered or reregistered as a "commercial" vehicle under this chapter until the Division of Motor Vehicles has verified a legal entity's good standing with the Delaware Secretary of State and compliance with Title 30, including proof of a valid occupational or business license.

(b) The Secretary of the Department of Transportation in conjunction with the Secretary of the Department of Finance shall promulgate such requirements of proof as they shall deem necessary for the administration and implementation of subsection (a) of this section.

(60 Del. Laws, c. 291 § 1; 74 Del. Laws, c. 110 § 41; 79 Del. Laws, c. 399 § 1.)

## § 2120 Waiver of registration and inspection of special mobile equipment.

The requirements for registration and inspection of special mobile equipment are waived.

(64 Del. Laws, c. 259 § 2.)

## § 2120A Registration of specialized vehicles; fees; restrictions.

(a) The Division of Motor Vehicles may register a specialized vehicle which will not meet the Division's standards for inspection or performance. The specialized vehicle shall be registered with restrictions as determined by the Division to be in the best interest of highway

safety.

(b) The annual registration fee shall be the same fee as assessed to a vehicle or motor vehicle in a similar class and according to the fees in this chapter.

(c) Specialized vehicles shall be subject to annual inspection in accordance with regulations as adopted by the Division of Motor Vehicles.

(d) Specialized self-propelled vehicles shall not be registered unless such vehicles are insured pursuant to § 2118 of this title.

(62 Del. Laws, c. 150 § 2.)

## Subchapter II

## Plates

### § 2121 Number and registration plates; provision for the issuance of special license plates to the owners of motor vehicles who operate amateur radio stations; special vanity plates.

(a) The Department shall furnish 1 number plate for each vehicle registered. The Department shall also furnish registration plates as hereinafter provided. Upon the termination of the lawful use of any such plates they shall be returned to the Department.

(b) Each number plate shall have displayed thereon the registration number assigned to the vehicle, the name of this State, which may be abbreviated and in the case of motor farm trucks used exclusively by farmers in the operation of their farms and which have been registered for the reduced fee as provided by law, such plates for such farm motor trucks shall also display in large type the letter "F," meaning for farm motor trucks only. In addition to the reduced registration fee to be paid for the registration of such motor farm trucks, the owner thereof shall also pay to the Department the cost of such special number plates for such trucks. In case of vehicles registered for a gross rate of more than 5,000 pounds, the number plate may also show the gross weight for which the vehicle is registered. Each number plate for each vehicle shall also show, in the manner determined by the Department and as hereinafter provided, the period of expiration thereof for which the vehicle has been registered and the required registration fee paid. Each number plate and the identifying letters and numerals thereon, except the registration period or expiration thereof, shall be of sufficient size to be plainly readable at a distance of 100 feet during daylight.

Motor vehicles with a registered gross weight of 7,000 pounds or less may be assigned any type of number plate. Motor vehicles, except for recreational vehicles, with a registered weight rating above 7,000 pounds will be assigned commercial or farm truck license plates. The number plates for motorcycles and mopeds, as defined by § 101(34) and (33) of this title, shall display thereon the letters "MC" for motorcycles and the letters "MP" for mopeds. The number plates for recreational vehicles and trailers as defined by § 101(55) and (54) of this title shall display thereon the letters "RV" for recreational motor vehicles and the letters "RT" for recreational trailers. The title registration number for mobile homes shall begin with the letters "MH" and park trailers with the letters "PT." Each number plate and special plate may have displayed thereon, in addition to all other numbers or letters required by this subsection, the words "The First State."

(c) The number plates shall be of such design, size, material and color as the Department may determine and shall be so constructed that validation plates, to be furnished by the Department as provided in this section, may be conveniently attached or affixed thereto and, when necessary, detached and removed therefrom.

(d) The Department shall furnish for each vehicle registered and upon the payment of the required fees a validation plate to be attached or affixed to the number plate as provided by subsection (c) of this section. Such validation plates shall be of such design, size, material and color and shall bear such legend or inscription as the Department may determine, showing the period or expiration date thereof.

(e) There may also be attached to any number plate an additional removable plate of a size and design approved by the Department, which additional plate may show such other data as the Department may approve. No number plate shall have attached thereto any advertising matter, any fictitious numbers, signs, or symbols or any legend of any character not approved by the Department.

(f) The Department shall issue for every passenger motor vehicle, rented without a driver, the number of plates of the same type as issued for private passenger vehicles.

(g) Upon written application, the Department shall furnish to any owner of a motor vehicle who is a resident of the State and who holds a valid, unrevoked, and unexpired official amateur radio station license issued by the Federal Communications Commission, a special license plate for a motor vehicle owned by such individual and on which the required registration fee has been paid. The special plate shall bear the official amateur radio station call letters as assigned by the Federal Communications Commission to said individual. The special plate shall supersede the regular numbered plate assigned to such motor vehicle during the time said individual holds a valid, unrevoked and unexpired official amateur radio station license issued by the Federal Communications Commission and while such motor vehicle is owned by such individual; provided that, at all times, the necessary registration fee has been paid for such motor vehicle. Upon making application for such special license plate the owner shall pay, in addition to the regular registration fee, the sum of $10 for such plate. Application shall be made on such form as shall be prescribed by the Department.

The special license plate shall have imprinted thereon only the call letters of the licensee, the words, "Delaware", "The First State" and the expiration date of the license plate.

(h) This title notwithstanding, the Department, upon written application, shall furnish to any owner of a motor vehicle otherwise entitled

to a license plate, who is a resident of this State, a special vanity license plate for each motor vehicle owned by such individual for which the required registration fee has been paid, which plate shall have displayed thereon:

(1) Any single letter or combination of letters or combination of letters and numerals, not to exceed 7 in number. If the combination includes numerals, the numerals shall be displayed to the right of all letters on the plate. A hyphen shall be permitted and shall be counted as 1 letter. In its discretion, the Department may refuse any combination of letters, or letters and numerals. The Department may refuse 7 character combinations that do not allow adequate spacing between letters and/or numbers;

(2) The word "Delaware";

(3) The words "The First State";

(4) The expiration date of the license plates; and

(5) Gold letters on a blue background, except for license plates provided for in § 2123 of this title, in which case they shall be blue letters on a gold background.

Upon making application for such special vanity license plates, the owner shall pay $40 annually for each plate in addition to the regular registration fee. Application shall be made on forms as prescribed by the Department. The Department shall issue such plates in the order in which the applications are received for any letter or combination thereof. Such license plates shall be the personal property of the owner so long as the owner shall comply with this section. No reasonable facsimile of any license plate as provided for in this chapter shall be displayed on the front of any motor vehicle registered in this State. The provisions of subsection (b) of this section relating to the display of the letters "P/C" for combination vehicles shall not be applicable to this subsection.

(i) This title notwithstanding, the Department, upon written application, shall furnish to any owner of a motorcycle, otherwise entitled to a Delaware license plate, a special vanity license plate, provided the required registration fee has been paid for such motorcycle pursuant to § 2151(1) of this title. Such special plate shall have displayed thereon:

(1) Any single letter or combination of letters or combinations of letters and numerals, not to exceed 5 in number. If the combination includes numerals, the numerals shall be displayed to the right of all letters on the plate. A hyphen shall be permitted and shall be counted as 1 letter. In its discretion, the Department may refuse any combination of letters, or letters and numerals;

(2) The word "Delaware";

(3) The letters M/C;

(4) The expiration date of the license plate; and

(5) Gold letters on a blue background.

Upon making application for such special vanity license plate, the owner shall pay $40 annually for each plate in addition to the regular registration fee. Application shall be made on forms as prescribed by the Department. The Department shall issue such plates in the order in which the applications are received for any letter or combination thereof. Such license plate shall be the personal property of the owner so long as the owner shall comply with this section. No reasonable facsimile of any license plate as provided for in this chapter shall be displayed on the front of any motorcycle registered in this State.

(j) The number plates for recreational vehicles shall display thereon the letters "RV." A $10 fee shall be assessed to change the certificate of title, registration and license plate for any vehicle already registered under another type of plate if the owner desires to change to a recreational vehicle tag.

(k) Effective March 27, 1996, individual special vanity license plates shall not be recalled when the Department issues other categories of special group license plates with conflicting letters and numbers.

(36 Del. Laws, c. 10 § 12; 37 Del. Laws, c. 10 § 5; Code 1935 § 5550; 43 Del. Laws, c. 244 § 6; 46 Del. Laws, c. 122 §§ 1, 2; 47 Del. Laws, c. 255 §§ 1, 4; 21 Del. C. 1953 § 2121; 49 Del. Laws, c. 14 § 2; 49 Del. Laws, c. 78; 53 Del. Laws, c. 349; 56 Del. Laws, c. 283 §§ 1, 2; 58 Del. Laws, c. 125; 58 Del. Laws, c. 384 § 5; 59 Del. Laws, c. 57 § 2; 60 Del. Laws, c. 180 § 1; 61 Del. Laws, c. 342 § 1; 63 Del. Laws, c. 212 § 1; 63 Del. Laws, c. 335 § 1; 65 Del. Laws, c. 78 §§ 1-3; 67 Del. Laws, c. 260 § 1; 68 Del. Laws, c. 156 §§ 61(a)-(c); 69 Del. Laws, c. 217 § 2; 69 Del. Laws, c. 454 § 3; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 264 § 1; 70 Del. Laws, c. 326 §§ 1-3; 71 Del. Laws, c. 20 § 1; 74 Del. Laws, c. 166 § 1; 80 Del. Laws, c. 136 § 1; 80 Del. Laws, c. 168 § 1.)

## § 2121A Special license plates for members of Delaware firefighters, auxiliary, and volunteer ambulance or rescue companies within the Delaware Firefighter's Association.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for the assignment to that vehicle of a special Delaware firefighter number; provided however, the owner of the vehicle has official documentation which indicates such person is a bona fide member of or holds membership with a Delaware-based fire company, auxiliary of a fire company, or a volunteer ambulance or volunteer rescue company belonging to any county firefighter's association or the Delaware State Firefighter's Association of the State of Delaware.

(2) This section applies only to:

a. A private passenger vehicle;

b. A truck with a 3/4-ton or smaller manufacturer's rated capacity; or

c. A van with a 3/4-ton or smaller manufacturer's rated capacity.

(b) No fee in addition to the annual registration fee required by this title is required for registration under this section; however, the original application under this section shall be subject to a $10 administration fee.

(c) The applicant must submit acceptable proof, as required by the Division, that such applicant is a member in good standing or is

otherwise eligible for the issuance of such special plate.

(d) [Repealed.]

(e) The Department shall reserve sufficient license plates including appropriate letters and numbers consecutively beginning with the number 1 as are required for this section.

(f) The Department, upon receipt of any official correspondence from the organization advising that the individual to which a special plate has been issued is no longer affiliated with such organization said special plate shall be forfeited and/or revoked immediately.

(68 Del. Laws, c. 349 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2122 Unauthorized use of or addition to plates.

No person shall use or exhibit in a manner or at a time not authorized by this chapter, or by the rules and regulations of the Department with respect thereto, any number of registration plates or accessory plates, or display or use any unauthorized design, symbol or legend on or attached to any such plates.

(36 Del. Laws, c. 10 § 12; 37 Del. Laws, c. 16 §§ 1, 2; Code 1935 § 5550; 43 Del. Laws, c. 244 § 6; 21 Del. C. 1953 § 2122.)

## § 2123 Number plates for elective or constitutional officers of the State and for state and federal judges.

(a) Upon written application, the Department shall furnish, without charge, to any state elective or constitutional officer, including members of both branches of the General Assembly, to the members of the judiciary (including the Judges of the United States District Court for the District of Delaware and United States Court of Appeals for the Third Circuit, resident in Delaware) and to the Representatives and Senators of the State in the Congress of the United States, a set of special plates for each motor vehicle owned by such person and on which the required registration fee has been paid, but not to exceed 2 sets of plates for each individual, which plates shall supersede, during such person's term of office and while such motor vehicle is owned by such person, the regular number plates assigned to such motor vehicle if at all times the necessary registration fee or fees have been paid for such motor vehicle.

(b) Each special plate furnished pursuant to this section shall have displayed thereon:

(1) Initials of the individual, except that the plates furnished to the Governor, Lieutenant Governor and Secretary of State may display the numerals 1, 2 and 3, respectively, in place of their initials;

(2) Designation of the person's office;

(3) Word "Delaware";

(4) Words "The First State";

(5) "Coat of arms" of the State;

(6) Expiration date of the license plate; and

(7) Blue letters on a gold background.

(c) It shall be lawful to display the state "coat of arms" on special plates furnished pursuant to this section, notwithstanding § 2306 of Title 29, and the written consent of the Secretary of State for such use shall not be required.

(36 Del. Laws, c. 10 § 12; Code 1935 § 5550; 43 Del. Laws, c. 244 § 6; 21 Del. C. 1953 § 2123; 59 Del. Laws, c. 277 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 64 § 1.)

## § 2124 Number plates for manufacturers and dealers; transit plates for transporters and owners of special construction equipment.

(a) A manufacturer or dealer owning any vehicle of a type otherwise required to be registered under this title may operate or move the same upon the highways when such vehicle is used:

(1) In the motor vehicle business of such manufacturer or dealer; or

(2) For the personal pleasure of such manufacturer or dealer or the members of such person's family, when operated by such manufacturer or dealer or an immediate member of such person's family; or, when such manufacturer or dealer is a corporation, for the personal pleasure of not more than 3 officers thereof who are actively engaged in its business, or the members of their families, or for the personal pleasure of the regular employees of such manufacturer, dealer or corporation when operated by such employee; or

(3) For testing such vehicles in the possession of such manufacturer or dealer; or

(4) For demonstrating vehicles in the possession of such manufacturer or dealer.

Such vehicles may be operated by a prospective purchaser, when licensed as an operator or permittee, without registering each such vehicle, upon condition that any such vehicle display thereon, in the manner prescribed by this chapter for regular number plates, a special plate or plates issued to such owner as provided by this section.

(b) The Division shall issue special plates, designated as "in transit" plates, to transporters and owners of special construction equipment. Such "in transit" plates may be used to operate or move like vehicles or equipment upon the highways solely for the purpose of delivering or moving such vehicle to or from the location of any type of construction. All such vehicles moved or operated under this section must comply with Chapter 45 of this title.

(c) This section shall not apply to work or service vehicles owned by a manufacturer, transporter or dealer.

(d) Every manufacturer, transporter or dealer shall keep a written record of the vehicles upon which such special plates are used and the time during which each set of plates is used on a particular vehicle, which record shall be open to inspection by any police officer or any officer or employee of the Department.

(e) No manufacturer or transporter of or dealer in motor vehicles, trailers or semitrailers shall cause or permit any such vehicle owned by such person to be operated or moved upon a public highway without the same being registered in accordance with this title and without there being displayed thereon a number plate or plates and a registration plate or plates, as provided by this title, except as otherwise authorized by this section.

(f) Any manufacturer, transporter or retail dealer as defined in Chapter 63 of this title may make application to the Department upon the appropriate form for a certificate and for 1 or more pairs of special plates or single special plates as are appropriate to various types of vehicles of the types subject to registration hereunder. The applicant shall also submit such proof of such applicant's status as a bona fide manufacturer, transporter or retail dealer as may be required by the Department. Dealer license plates will be limited to retail dealerships based on the number of vehicles sold per year. Retail dealers selling 5 to 10 vehicles per year may obtain no more than 1 dealer plate; retail dealers selling 11-25 vehicles per year may obtain no more than 2 dealer plates; retail dealers selling 26-49 vehicles per year may obtain no more than 4 dealer plates; retail dealers selling 50-99 vehicles per year may obtain no more than 20 dealer plates; retail dealers selling 100 or more vehicles per year may obtain any number of dealer plates at the retail dealer's discretion. Wholesale dealers selling 5 to 10 vehicles per year may obtain no more than 1 dealer plate; wholesale dealers selling 11-25 vehicles per year may obtain no more than 2 dealer plates; wholesale dealers selling 26-49 vehicles per year may obtain no more than 4 dealer plates; wholesale dealers selling 50 or more vehicles per year may obtain no more than 20 dealer plates.

(g) The Department, upon approving any such application, shall issue to the applicant a certificate containing the applicant's name and address and other appropriate information.

(h) The Department, upon approving any such application, shall also issue special plates of a design, size, material and color determined by the Department. Each plate or pair of plates so issued, however, shall contain a number or symbol distinguishing the same from other plates issued under this chapter.

(i) Notwithstanding this section, the Department upon approving an application filed by a licensed automotive recycler may issue 1 or more special plates as provided for in subsection (a) of this section.

(j) Dealer plates may be transferred from 1 dealer to another by completing a seller's affidavit to transfer a dealer tag or tags and submitting it with the appropriate fee. The seller's affidavit shall include the seller's and buyer's names, the plate number and the date of the transfer. A dealer may not acquire more plates than they are otherwise permitted by subsection (f) of this section.

(k) All special plates issued hereunder shall expire at midnight on December 31 of each year and may be extended for the ensuing year by the person to whom such plates were issued upon application to the Department and payment of the fees provided by this title.

(36 Del. Laws, c. 10 § 16; Code 1935 § 5554; 43 Del. Laws, c. 244 § 10; 21 Del. C. 1953 § 2124; 53 Del. Laws, c. 132; 58 Del. Laws, c. 364; 65 Del. Laws, c. 76 §§ 1, 2; 65 Del. Laws, c. 318 § 2; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 580 § 1; 74 Del. Laws, c. 41 § 1; 79 Del. Laws, c. 44 § 1.)

## § 2125 Ownership of plates.

Number and registration plates shall be the property of the State and shall be furnished by the Department for each registered motor vehicle without additional cost to the owner.

(36 Del. Laws, c. 10 § 26; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2125.)

## § 2126 Display of number plates; penalty.

(a) The number plate assigned to a motor vehicle shall at all times be attached to the rear of the motor vehicle, except truck tractors attached to trailers or semitrailers, whether coupled or uncoupled, shall display the number plate on the front of the vehicle in such a manner as to be easily identified. Such number plates shall meet the requirements of subsection (b) of this section. Special license plates may be displayed on the front or rear of the vehicle. The regular numbered plate assigned to the vehicle or a duplicate special license plate furnished under § 2121(h) of this title must be displayed on the vehicle rear when the special plate is displayed on the front of the vehicle.

(b) Every number plate shall at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible.

(c)(1) No number plate, or any portion thereof, shall be covered with any tinted material, nor shall any other material be placed on or around a number plate which would conceal and/or obscure any information contained thereon, including the registration expiration sticker. Plate frames that do not conceal and/or obscure any information contained on the plate, including the registration expiration sticker, are not prohibited by this section.

(2) Operation and/or use of a plate frame containing or including scrolling, strobe, and/or blinking lights around a license plate for any purpose, including but not limited to advertisement, to convey a message or communication is prohibited, except during a special organized event such as a parade or car show.

(d) Whoever violates subsection (a) or (b) of this section shall be fined not less than $25 nor more than $50. Whoever violates subsection (c) of this section shall be fined not less than $100 nor more than $200.

(e) It shall be unlawful to sell, offer to sell, transfer, possess or use any kind of device, product, plate cover, or object, including any image altering device or spray, for the purpose of hindering, inhibiting, impeding, impairing, or preventing the photographing, recording or imaging of a license plate in connection with the enforcement of this motor vehicle code or any local or municipal traffic laws. Any person convicted of a violation of this subsection shall, for the first offense, be fined not less than $50 nor more than $1,000. For each subsequent

violation occurring within 3 years of the date of the original violation, the person shall be fined not less than $200 nor more than $2,000.

(f) It shall be unlawful to sell any license plate cover or frame which would violate subsection (c) of this section if placed on a Delaware license plate unless the seller posts a sign in close proximity to the product which states clearly and conspicuously to the public that it is illegal to place the license plate cover or frame on Delaware license plates. Any person convicted of a violation of this section shall be fined not less than $50 and not more than $100 and shall pay restitution to the purchaser of the license plate cover or frame in the amount of 10 times the purchase price.

(36 Del. Laws, c. 10 §§ 13, 32; 37 Del. Laws, c. 10 § 11; Code 1935 §§ 5551, 5570; 43 Del. Laws, c. 244 § 7; 46 Del. Laws, c. 122 § 3; 21 Del. C. 1953 § 2126; 58 Del. Laws, c. 561; 65 Del. Laws, c. 503 § 5; 70 Del. Laws, c. 264 § 2; 70 Del. Laws, c. 320 §§ 1, 2; 74 Del. Laws, c. 15 §§ 1, 2; 74 Del. Laws, c. 321 § 1; 76 Del. Laws, c. 339 § 1; 77 Del. Laws, c. 184 § 1.)

## § 2127 Duplicate plates.

Whenever number or registration plates are lost, destroyed or so effaced as to no longer comply with the requirements of law, new plates shall be furnished by the Department upon receipt of satisfactory information and payment of the required fee.

(36 Del. Laws, c. 10 §§ 19, 26; Code 1935 §§ 5557, 5564; 43 Del. Laws, c. 244 § 15; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2127.)

## § 2128 Status of plates upon transfer of title; conditions permitting reissuance of registration number.

(a) Upon the transfer of a vehicle or upon the expiration of registration for any other cause, the number plates assigned to a vehicle shall remain attached thereto. However, the transferor may have such registration plates and number plates transferred and assigned to another vehicle upon proper application in writing to the Department and upon payment to the Department of a fee of $20 in addition to all other fees required by law.

(b) If a vehicle registration has been expired for 1 year or more, the registration number may be reissued by the Division of Motor Vehicles.

(c) If a vehicle which was registered in Delaware is titled and registered in another jurisdiction, the Delaware title and registration is immediately canceled and the registration number may immediately be reissued by the Division of Motor Vehicles.

(d) If a registered vehicle has been junked, salvaged or destroyed to an extent that it will not be registered again for highway use and if the Delaware certificate of title has been surrendered to the Division, the registration number may be reissued by the Division of Motor Vehicles.

(e) If a registration number has been removed from a vehicle pursuant to subsection (a) of this section, and if the registration has expired, the registration number may be reissued by the Division of Motor Vehicles.

(36 Del. Laws, c. 10 § 12; Code 1935 § 5550; 47 Del. Laws, c. 255 § 1; 48 Del. Laws, c. 115 § 1; 21 Del. C. 1953 § 2128; 52 Del. Laws, c. 41; 52 Del. Laws, c. 169; 63 Del. Laws, c. 338 § 1; 66 Del. Laws, c. 83 § 1; 80 Del. Laws, c. 77 § 17.)

## § 2129 Issuance of temporary registration plates with temporary permits; issuance to dealers and certified automotive repair technicians for reissuance.

(a) The Department may issue a temporary registration plate designed by the Department to an owner to whom it grants a temporary registration permit pursuant to § 2103 of this title. The dates of issuance and expiration and the make and serial number of the vehicle for which issued shall be stamped or marked with indelible ink in letters at least 3/4 of an inch high upon any temporary plate so issued and a record of such information, together with the name of the owner, shall be retained by the Department. Motorcycle temporary plates may be stamped or marked in letters less than 3/4 of an inch high.

(b) The Department may also issue temporary registration plates to a dealer in motor vehicles, either new or used, who submits such proof as the Department requires of such status as a bona fide dealer, for reissuance to purchasers of unregistered motor vehicles. Such plates may be issued to a qualified dealer upon application for not less than 5 of such plates and payment of a fee of $20 for each plate.

(c) The Department may also issue temporary registration plates to an automotive repair technician who is certified under CDR 7-1100-1131 and submits such proof as the Department requires of such status as a bona fide certified repair technician, for reissuance to customer's unregistered motor vehicles for the purpose of verifying repairs.

(21 Del. C. 1953 § 2129; 50 Del. Laws, c. 260 § 1; 53 Del. Laws, c. 221 § 2; 67 Del. Laws, c. 265 § 1; 68 Del. Laws, c. 156 § 58(a); 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 9 § 1; 80 Del. Laws, c. 77 § 13; 80 Del. Laws, c. 94 § 1.)

## § 2130 Issuance of temporary plates by dealers and certified automotive repair technicians; information to be placed on plates; records to be maintained.

(a) A dealer may issue a temporary registration plate for a fee of not more than $20 for each plate to a purchaser of an unregistered motor vehicle who makes proper application to the Department for registration thereof upon an appropriate form and delivers such application, together with the required fee, to the dealer for transmission to the Department.

(b) A dealer who issues a temporary registration plate shall mark or stamp thereon with indelible ink in letters at least 3/4 of an inch high the dates of issuance and expiration and the make and serial number of the vehicle for which issued and shall immediately transmit to the Department upon forms prescribed and furnished by the Department the aforesaid information and the name of the purchaser. Motorcycle temporary plates may be stamped or marked in letters less than 3/4 of an inch high.

(c) Every dealer who receives temporary plates from the Department shall maintain at such dealer's place of business a record of all such plates issued to such dealer and of all such plates issued by such dealer, with the dates of receipt and issuance, the name of the purchaser to

whom issued, the make and serial number of the vehicle for which issued and such other information as the Department may require. Each such record shall be kept for a period of at least 3 years from the date of entry and shall be available for inspection by representatives of the Department or police officers during regular business hours.

(d) A certified repair technician may issue a temporary registration plate for a fee of not more than $10 for each plate to a customer's unregistered motor vehicle.

(e) Liability insurance in the form of a shopkeeper's or garage-keeper's policy shall be in effect prior to the issuance of a temporary registration plate.

(f) A certified repair technician who issues a temporary registration plate shall mark or stamp thereon with indelible ink in letters at least 3/4 of an inch high the dates of issuance and expiration and the make and serial number of the vehicle for which issued and shall immediately transmit to the Department upon forms prescribed and furnished by the Department the aforesaid information and the name of the business name that employs the certified repair technician. Motorcycle temporary plates may be stamped or marked in letters less than 3/4 of an inch high.

(g) Every certified repair technician who receives temporary plates from the Department shall maintain at such certified repair technician's place of business a record of all such plates issued to such certified repair technician and of all such plates issued by such certified repair technician, with the dates of receipt and issuance, the name of the customer to whom issued, the make and serial number of the vehicle for which issued and such other information as the Department may require. Each such record shall be kept for a period of at least 3 years from the date of entry and shall be available for inspection by representatives of the Department or police officers during regular business hours.

(21 Del. C. 1953 § 2130; 50 Del. Laws, c. 260 § 1; 53 Del. Laws, c. 326; 67 Del. Laws, c. 265 § 2; 68 Del. Laws, c. 156 § 58(b); 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 9 § 2; 80 Del. Laws, c. 77 § 15; 80 Del. Laws, c. 94 § 1.)

## § 2131 Effect and duration of temporary registration plates; destruction upon expiration.

(a)(1) A temporary registration plate properly issued to an owner or purchaser of a vehicle in accordance with § 2129 or § 2130 of this title shall be valid and shall entitle said owner or purchaser to operate the vehicle for which issued upon the public highways for a period of 60 days from the date of issuance or until the issuance of a permanent registration plate or until the cancellation or rescission of the contract of purchase, whichever occurs first.

(2) A temporary registration plate properly issued by a certified repair technician to a customer's expired vehicle for the purpose of verifying repairs in accordance with § 2129 or § 2130 of this title shall be valid and shall entitle said certified repair technician to operate the vehicle for which issued upon the public highways for a period of not more than 60 days from the date of issuance.

(b) Upon the expiration of a temporary registration plate the holder thereof shall immediately destroy the same.

(21 Del. C. 1953 § 2131; 50 Del. Laws, c. 260 § 1; 58 Del. Laws, c. 372; 68 Del. Laws, c. 156 § 58(c); 80 Del. Laws, c. 94 § 1.)

## § 2132 Regulations by Secretary of Transportation; power to suspend right to issue temporary plates.

The Secretary of Transportation shall have the power to make rules and regulations, not inconsistent with §§ 2129, 2130 and 2131 of this title, to carry out the provisions thereof relative to temporary registration plates, and the said Secretary shall have the specific power, after hearing, to suspend the right to issue temporary plates of any dealer who fails to comply with the requirements of said sections or of any regulation consistent therewith.

(21 Del. C. 1953 § 2132; 50 Del. Laws, c. 260 § 1; 57 Del. Laws, c. 670 §§ 8A, 8B; 74 Del. Laws, c. 110 § 42.)

## § 2133 Penalties; jurisdiction of justices of the peace.

(a) Any person who:

(1) Knowingly inserts any false information upon the face of a temporary registration plate; or

(2) Issues any temporary registration plate to a person or for a vehicle other than those permitted under this title; or

(3) Operates any vehicle bearing a temporary registration plate which is invalid or expired shall be guilty of an unclassified misdemeanor, and shall for the first offense be fined not less than $25 nor more than $100. For each subsequent like offense, the person shall be fined not less than $50 nor more than $200, or imprisoned not less than 10 nor more than 30 days, or both.

(b) Justices of the peace shall have jurisdiction of offenses under this section.

(21 Del. C. 1953 § 2133; 50 Del. Laws, c. 260 § 1; 65 Del. Laws, c. 503 § 6; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 60 § 3.)

## § 2134 Special license plates for persons with disabilities which limit or impair the ability to walk; parking; penalties.

(a) The owner of a vehicle registered in Delaware and described in subsection (b) of this section may apply to the Department for the issuing to the vehicle a special license plate for persons with disabilities which limit or impair the ability to walk if a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, certifies that the applicant or a household member has 1 or more of the following disabilities that are permanent with no prognosis for improvement:

(1) Cannot walk 200 feet without stopping to rest;

(2) Cannot walk safely without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair or

other assistive device;

(3) Is restricted by lung disease to such an extent that the applicant's or household member's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(4) Uses portable oxygen;

(5) Has a cardiac condition to the extent that the applicant's or household member's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(6) Is severely limited in that person's own ability to walk due to an arthritic, neurological or orthopedic condition.

(b) This section applies only to passenger cars, station wagons, pickup trucks, motorcycles, panel van trucks and other motor vehicles that are reasonably used by persons with disabilities which limit or impair the ability to walk and that have a gross registered weight which does not exceed 14,000 lbs.

(c) A special license plate may be issued under this section only if the applicant submits proof satisfactory to the Department that the applicant or a household member has a disability that is permanent with no prognosis for improvement as described in paragraphs (a)(1)-(6) of this section. Satisfactory proof prior to issuance must include the signature of a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, on a Department special disabled license plate or placard applicant form on which the physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, certifies the applicant's or household member's permanent disability. Renewal of the registration for the vehicle to which the special license plate is assigned shall require the applicant to submit a written certification that the applicant continues to require the special license plate for the reason or reasons it was initially issued; a new certification is not required. The issuance of a special license plate does not preclude the issuance of 1 removable windshield placard pursuant to § 2135 of this title.

(d) The fee for the issuance or reissuance of a special license plate may not exceed the fee charged for the issuance or reissuance of a standard license plate for the same class of vehicle.

(e) A special license plate issued pursuant to this section must display the internationally recognized wheelchair symbol of access in the same size as the numbers and/or letters on the plate.

(f)(1) A person for whom a special license plate is issued under this section or under a similar statute of any other state or country may park in parking spaces or zones restricted for use by persons with disabilities which limit or impair the ability to walk and in unmetered parking spaces or zones restricted as to the length of parking time permitted; furthermore, if such a parking space is assigned to a specific person with a disability as that person's residential or business parking space, that person may use the space without any time restriction.

(2) A person who is driving a vehicle with a special license plate issued under this section or under a similar statute of any other state or country may not park:

a. In a space or zone where stopping, standing or parking is prohibited to all vehicles;

b. In a space or zone which is reserved for other special types of vehicles;

c. In a space or zone assigned to another person for the other person's residential or business use;

d. Where a local ordinance prohibits parking during heavy traffic periods in morning, afternoon or evening rush hours; or

e. Where parking clearly would present a traffic hazard.

(3) The person for whom a special license plate is issued under this section or under a similar statute of any other state or country must be the driver of or a passenger in the vehicle bearing the special plate whenever the vehicle parks in a parking space or zone restricted for use only by vehicles with a special license plate or placard for persons with disabilities which limit or impair the ability to walk.

(g)(1) A person who intentionally presents false information to a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, or to the Department in an attempt to obtain a special license plate under this section shall be guilty of an unclassified misdemeanor. For the first offense, the person shall receive a mandatory fine of $100. For each subsequent like offense, the person shall receive a mandatory fine of $200 or be imprisoned for not less than 10 nor more than 30 days, or both. Any other violation of this section is a violation. Justices of the peace have jurisdiction over violations of this section.

(2) A summons may be attached to an unattended vehicle found in violation of any of the provisions of this section by any police officer or State Police Academy cadet authorized to issue a summons for a violation of this section. It is prima facie evidence that the person in whose name the unattended vehicle is registered is responsible for the violation.

(h) The Department may adopt rules and regulations that are reasonable or necessary for the implementation of this section.

(21 Del. C. 1953 § 2134; 55 Del. Laws, c. 398 § 1; 61 Del. Laws, c. 345 § 1; 63 Del. Laws, c. 341 § 1; 63 Del. Laws, c. 441; 65 Del. Laws, c. 503 § 7; 67 Del. Laws, c. 125 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 96 § 1; 73 Del. Laws, c. 397 § 1; 76 Del. Laws, c. 210 § 1; 77 Del. Laws, c. 60 § 4; 77 Del. Laws, c. 113 §§ 1-3.)

## § 2135 Parking permits for persons with disabilities which limit or impair the ability to walk; parking; penalties.

(a) A person or a member of the person's household who has a disability that is permanent with no prognosis for improvement as described in § 2134(a)(1)-(6) of this title or who has a physical disability which is not permanent but which substantially limits or impairs the person's or household member's ability to walk for no less than 5 weeks and which is so severe that the person or household member

would endure a hardship or be subject to a risk of injury without a temporary parking permit for persons with disabilities, or a person who is age 85 or older, whether or not that person has a disability, or an organization that regularly in its course of business transports persons with disabilities may apply to the Department for a permanent or temporary parking permit, whichever is appropriate, on a form provided by the Department. The form must state:

(1) That a permanent permit for a person with a disability, or for a person 85 or older, or for an organization that regularly in its course of business transports persons with disabilities expires after 3 years and a temporary permit for a person with a disability may not exceed 90 days;

(2) That a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, must certify a disability and indicate whether the applicant or household member needs a permanent parking permit or a temporary parking permit;

(3) That an applicant 85 or older need only submit proof of age that is satisfactory to the Department; and

(4) The possible penalties for intentionally and falsely representing that an applicant or household member is qualified to obtain a permanent or temporary parking permit.

An applicant or a household member who is eligible for a special license plate pursuant to § 2134 of this title may also apply for 1 permanent parking permit under this section. A parking permit is issued in the form of a removable placard capable of hanging from or being attached to the front windshield rearview mirror of a vehicle.

(b) A permanent or temporary parking permit may be issued under this section only if the applicant submits proof satisfactory to the Department that the applicant or household member has a disability that is permanent with no prognosis for improvement as described in § 2134(a)(1)-(6) of this title, or that the applicant or household member has a physical disability which is not permanent but which substantially limits or impairs the applicant's or household member's ability to walk for no less than 5 weeks and which is so severe that the applicant or household member would endure a hardship or be subject to a risk of injury without a temporary parking permit for persons with disabilities, or that the applicant or household member is 85 or older, or that the applicant is an organization that regularly in its course of business transports persons with disabilities. Satisfactory proof of a disability must include the signature of a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, on a Department special license plate or placard application form on which the physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, indicates the applicant's or household member's disability.

(c) The Department may not charge a fee for issuing or reissuing a parking placard. However, the Department shall charge a fee to offset the actual replacement cost of replacing a lost or damaged placard.

(d)(1) A permanent permit issued under this section for a person who has a disability stated in § 2134(a) of this title, or for a person 85 or older, or to an organization that regularly in its course of business transports persons with disabilities expires 3 years from the date of issue. However, another permanent permit may be issued upon reapplication.

(2) A temporary permit issued under this section for an applicant who has a physical disability which is not permanent but which substantially limits or impairs the person's ability to walk for no less than 5 weeks and which is so severe that the person would endure a hardship or be subject to a risk of injury without a temporary parking permit for persons with disabilities expires at the discretion of the Department, but may not exceed 90 days from the date of issue. However, another temporary permit may be issued upon reapplication.

(3) There is no limit to the number of times that a person may reapply for a permanent or temporary parking permit issued under this section. However, for each reapplication for a temporary parking permit, the applicant must comply with the requirements for an initial application as set forth in subsection (a) of this section. A new certification is not required for applicants or applicants' household members who have a permanent disability as described in § 2134(a)(1)-(6) of this title; however, the applicant shall submit a written certification that the applicant continues to require the parking permit for the reason or reasons it was initially issued.

(e) A parking permit for a person with a disability which limits or impairs the ability to walk, or for a person 85 or over, or for an organization pursuant to subsection (i) of this section must be in the form of a removable windshield placard of a size and design determined by the Department. A permanent parking placard must be blue; a temporary parking placard must be red; an organization parking placard must be green. The information on the placard must be large enough to be read clearly from outside a motor vehicle when the placard is hanging from the vehicle's front windshield rearview mirror, or if there is no front windshield rearview mirror, the placard must be displayed on the dashboard and be able to be read by a person outside of the vehicle. Both sides of the placard must contain the following: the words "State of Delaware Division of Motor Vehicles" and "Remove placard when vehicle is in motion," the internationally recognized wheelchair symbol of access, an identification number, and the expiration date. The expiration date must appear in letters or numerals at least 1 inch tall. Only 1 placard may be issued initially to an applicant; however, upon written request, the Department shall issue 1 additional placard to an applicant who does not also have a special license plate issued pursuant to § 2134 of this title.

(f)(1) A person or organization for whom a parking placard is issued under this section or under a similar statute of any other state or country may park in parking spaces or zones restricted to use only by persons with disabilities and in unmetered parking spaces or zones restricted as to the length of parking time permitted; furthermore, if such a parking space is assigned to a specific person with a disability as that person's residential or business parking space, that person may use the space without any time restriction.

(2) A person who is driving a vehicle with a parking placard issued under this section or under a similar statute of any other state or

country may not park:

a. In a space or zone where stopping, standing or parking is prohibited to all vehicles;

b. In a space or zone which is reserved for other special types of vehicles;

c. In a space or zone assigned to another person for the other person's residential or business use;

d. Where a local ordinance prohibits parking during heavy traffic periods in morning, afternoon or evening rush hours; or

e. Where parking clearly would present a traffic hazard.

(3) The person for whom a red or blue parking placard is issued under this section or under a similar statute of any other state or country must be the driver of or a passenger in the vehicle displaying the parking placard whenever the vehicle parks in a parking space or zone restricted for use only by vehicles with a special license plate or parking placard for persons with disabilities.

(g) A placard issued under this section is for the exclusive and personal use of the person or organization for whom it is issued and may not be used by any other person or organization.

(h) A parking placard must be returned to the Department:

(1) When the person or organization for whom it was issued reapplies for a placard;

(2) When the placard expires;

(3) When the person or organization for whom it was issued no longer needs it, is no longer disabled, or no longer regularly in its course of business transports persons with disabilities;

(4) Upon the death of the person for whom it was issued.

(i) Notwithstanding any provisions of this Code to the contrary, the Department may, without the certification of a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, issue a green parking placard upon application by an organization that regularly in its course of business transports persons with disabilities which limit or impair the ability to walk if the organization presents proof satisfactory to the Department that the organization regularly in its course of business transports persons with disabilities. A green parking placard may be used only when at least 1 person who is entitled to obtain a permanent or temporary parking placard pursuant to subsection (a) of this section is being transported and only when an employee or volunteer staff person of the organization is the driver of the vehicle.

(j)(1) A person or organization who intentionally presents false information to a licensed physician, a physician assistant who is supervised by a licensed physician, or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician, or to the Department in an attempt to obtain a parking placard under this section shall be guilty of an unclassified misdemeanor. For the first offense, the person or organization shall receive a mandatory fine of $100. For each subsequent like offense, the person or organization shall receive a mandatory fine of $200 or be imprisoned for not less than 10 nor more than 30 days, or both. Any other violation of this section is a violation. Justices of the peace have jurisdiction over violations of this section.

(2) A summons may be attached to an unattended vehicle found in violation of any of the provisions of this section by any police officer or State Police Academy cadet authorized to issue a summons for a violation of this section. It is prima facie evidence that the person or organization in whose name the unattended vehicle is registered is responsible for the violation.

(k) The Department may adopt rules and regulations that are reasonable or necessary for the implementation of this section.

(63 Del. Laws, c. 441 § 2; 64 Del. Laws, c. 88 § 1; 65 Del. Laws, c. 102 §§ 1-3; 65 Del. Laws, c. 503 § 8; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 397 § 2; 76 Del. Laws, c. 210 § 2; 77 Del. Laws, c. 60 § 5; 77 Del. Laws, c. 113 § 4.)

## § 2136 Sale and manufacture of registration plates.

(a) No person shall sell or offer for sale any vehicle registration plate which is similar in design, shape, size and colors to any vehicle license plate considered valid for registration purposes.

(b) No person shall manufacture vehicle registration plates which are similar in design, shape, size and colors to any vehicle license plate considered valid for registration purposes, unless authorized in writing by the Director of the Division of Motor Vehicles.

(c) This section shall not apply to registration plates issued prior to 1941 which are collectors' items.

(d) A violation of this section shall be an unclassified misdemeanor. Justice of the Peace Courts shall have jurisdiction over violations of this section.

(60 Del. Laws, c. 604 § 1; 63 Del. Laws, c. 441 § 2; 77 Del. Laws, c. 60 § 6.)

## § 2137 Special license plates for former prisoners of war.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for the assignment to that vehicle of a special prisoner-of-war registration number.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued under this section only if:

(1) The applicant states that the applicant is a former prisoner of war in any war, the Korean conflict, the Viet Nam conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle; and

(2) The United States Department of Defense certifies that the applicant was a former prisoner of war in any war, the Korean conflict,

the Viet Nam conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle.

(3) Upon receipt by the Department of information that the individual to whom the special plate has been issued is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $10 administrative fee.

(d) [Repealed.]

(e) The Department shall reserve sufficient special license plates including the letters "POW" and numbered consecutively beginning with the numeral 1 as are necessary to implement this section.

(64 Del. Laws, c. 206 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 204 § 5; 80 Del. Laws, c. 49 § 1.)

## § 2138 Special license plates for veterans with disabilities.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Department for the assignment to that vehicle of a special disabled veteran number.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or smaller manufacturer's rated capacity.

(c) Special registration may be issued under this section only if:

(1) The applicant states that:

a. The applicant is a veteran with a disability of any war, the Korean conflict, the Viet Nam conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle; or

b. It has been determined by the United States Department of Veterans Affairs that the applicant meets the qualifications of being a veteran with a service-connected disability; and

(2)a. The United States Department of Defense certifies that the applicant sustained a disabling injury in any war, the Korean conflict, the Viet Nam conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle; or

b. The United States Department of Veterans Affairs certifies that the applicant meets the qualifications of being a veteran with a service-connected disability.

(3) Upon receipt by the Department of information that the individual to whom the special plate has been issued is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(d)(1) Any applicant who applies for the assignment of a special plate under this section who also submits proof satisfactory to the Department that the applicant or a household member has a disability that would permit issuance of a special license plate under § 2134 of this title may be issued a special plate for veterans with disabilities that will be considered in all respects as a special license plate for persons with disabilities issued under § 2134 of this title.

(2) A special license plate issued pursuant to this subsection must, in addition to the special disabled veteran number, display the internationally recognized wheelchair symbol of access on the plate.

(3) The Department may adopt rules and regulations that are reasonable or necessary for the implementation of this subsection.

(e) No fee in addition to the annual registration fee required by this title is required for registration under this section; however, the original application under this section shall be subject to a $10 administrative fee.

(f) The Department shall reserve sufficient license plates including the letters "DAV" and numbered consecutively beginning with the numeral "1" as are required for this section.

(64 Del. Laws, c. 262 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 204 § 5; 78 Del. Laws, c. 107 §§ 1-3; 80 Del. Laws, c. 49 § 1.)

## § 2139 Special license plates for veterans formerly missing-in-action.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for the assignment to that vehicle of a special missing-in-action registration number.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued under this section only if:

(1) The applicant states that the applicant is a veteran formerly missing-in-action in any war, the Korean conflict, the Vietnam conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle; and

(2) The United States Department of Defense certifies that the applicant was a veteran formerly missing-in-action in any war, the

Korean conflict, the Vietnam conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle.

(3) Upon receipt by the Department of information that the individual to whom the special plate has been issued is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $10 administrative fee.

(d) The Department shall reserve sufficient special license plates including the letters "MIA" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(65 Del. Laws, c. 277 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 204 § 5; 80 Del. Laws, c. 49 § 1.)

## § 2139A Special license plates for members of the Delaware National Guard and Reserves.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Department for the assignment to that vehicle of a special Delaware National Guard or Reserves number; provided, however, the owner of the vehicle must possess official documentation which indicates the owner is a bona fide member of the Delaware National Guard or Reserves.

(b) This section shall apply only to:

(1) A private passenger vehicle; or

(2) A truck with no more than a 3/4-ton manufacturer's rated capacity.

(c) Other than the annual registration fee required by this title, no fee shall be required for registration under this section; however, the original application shall be subject to a $10 administrative fee.

(d) The Department shall reserve sufficient special license plates, including appropriate letters and numbered consecutively, beginning with the numeral "1", as are required under this section.

(e) Upon receipt of any official correspondence from the Delaware National Guard or Reserves advising that the individual to whom a special plate has been issued is no longer affiliated with the National Guard or Reserves such special plate shall be forfeited and/or revoked immediately.

(f) Upon receipt by the Department of information that the individual to whom the special plate has been issued is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(68 Del. Laws, c. 2 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 186 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139B Special license plates for recipients of the Purple Heart.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Purple Heart registration number; provided however, that the owner of the vehicle must possess official documentation which indicates that such owner is the recipient of the Purple Heart medal.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of World War I, World War II, the Korean Conflict, Vietnam Conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided however, that an original application under this section shall be subject to a $10 administrative fee.

(d) The Department shall reserve sufficient special license plates including the letters "PH" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration. In the event the surviving spouse remarries, the plate must be returned to the Department within 90 days. If no spouse exists at the time the Department receives information regarding the death of the individual to whom the special plate was issued, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(69 Del. Laws, c. 22 § 1; 70 Del. Laws, c. 9 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139C Special license plates for members of Ducks Unlimited.

(a) The owner of any vehicle described in this subsection may apply to the Department for the assignment to that vehicle of a special Ducks Unlimited registration.

This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or smaller manufacturer's rated capacity.

(b) Special registration may be issued under this section only if:

(1) The applicant states that the applicant is a member of the Delaware Chapter of Ducks Unlimited; and

(2) The Delaware Chapter of Ducks Unlimited certifies that the applicant is an active member of that organization.

(c) No fee in addition to the annual registration fee required by this title is required for registration under this section; however, the original application under this section shall be subject to a $10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Division of Motor Vehicle projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) The Department shall reserve sufficient license plates including the letters "D.U." and numbered consecutively beginning with the numeral "1" as are required for this section.

(e) Upon notification from the Delaware Chapter of Ducks Unlimited that an individual is no longer an active member of that organization, the Department shall notify the license plate holder to surrender the license plate to the Department within 30 days.

(69 Del. Laws, c. 33 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 43.)

## § 2139D Special license plates for recipients of medals or commendations for valor.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special valor registration number; provided, however, that the owner of the vehicle must possess official documentation which indicates that such owner is the recipient of a medal or commendation for valor while serving in the United States Armed Forces, including, but not limited to, the Congressional Medal of Honor, the Silver Star, the Bronze Star, the Flying Cross, the Navy Cross, or a Letter of Commendation if awarded for valor under combat conditions.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of World War I, World War II, the Korean Conflict, the Vietnam Conflict, Operation Desert Storm or other military conflict on foreign soil in which United States armed forces were formally engaged in battle.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $10 administrative fee which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding Chapters 13 and 14 of Title 2 to the contrary.

(d) The Department shall reserve sufficient special license plates including the letter "V" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section. In addition, any special license plate issued pursuant to this section shall include an insignia of the specific medal or commendation awarded to the applicant.

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration. If no spouse exists, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(70 Del. Laws, c. 24 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139E Special license plates for retired military personnel of the United States Armed Forces.

(a)(1) The owner of any vehicle described in subsection (b) of this section may apply to the Department for assignment to that vehicle of a special retired military registration number; provided, however, that the owner of the vehicle must possess official documentation which indicates that the owner has retired from the United States armed forces.

(2) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant has been honorably discharged from the United States armed forces after having served an aggregate minimum of 20 years in 1 or more of the branches of the United States armed services.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $10 administrative fee which shall be deposited into a special fund and used by the Division of Motor Vehicles with the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) The Department shall reserve sufficient special license plates numbered consecutively beginning with the numeral "1" as are necessary to implement this section. In addition, any special license plate issued pursuant to this section shall include the insignia of the seal of the branch of the armed services from which the applicant retired directly above the word "retired."

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration. If no spouse exists, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(70 Del. Laws, c. 200 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139F Special animal welfare license plates.

(a) The owner of any vehicle described in paragraph (b) of this subsection may apply to the Department for the assignment to that vehicle of a special animal welfare registration.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or smaller manufacturer's rated capacity.

(c) Upon the initial application for a plate to be issued pursuant to this section, a 1-time fee of $50, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(d) The 1-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles have covered the costs of promoting and administering this section shall be applied pursuant to subsection (f) of this section.

(e) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Committee. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. The license plate may also include words, a slogan or an emblem indicating support for, or interest in, animal welfare. The Committee may at its discretion drop the wording "The First State" and substitute in place thereof an animal welfare slogan. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(f) The funds derived by the State from that portion of the 1-time fee of $50 that is not defined as an administrative fee pursuant to subsection (d) of this section shall be deposited in the State Treasury and credited to a special fund account to be known as the Animal Welfare License Fund in the Department of Health and Social Services, Public Health Division. The Department of Health and Social Services shall divide the funds between organizations or veterinary clinics that provide low-cost dog or cat spaying and neutering services and nonprofit organizations that provide shelter to unwanted stray dogs and cats. In determining how the funds shall be expended, the Department of Health and Social Services shall consider the recommendations of the Fund Committee, as defined in subsection (g) of this section below, provided that such recommendations shall not be binding on the Department of Health and Social Services.

(g) For purposes of this section, the "Fund Committee" shall consist of the following 6 persons or their respective designees:

(1) The Secretary of the Department of Health and Social Services, which person shall also act as Chairperson of the committee and shall serve as an ex officio nonvoting member;

(2) The President of the First State Animal Center—SPCA Board of Directors;

(3) The President of the Delaware SPCA Board of Directors;

(4) The President of the Delaware Humane Association Board of Directors;

(5) The President of the Faithful Friends Animal Society Board of Directors; and,

(6) The President of the State Veterinary Board.

The Fund Committee shall meet as often as is necessary at times and in locations specified by the Chairperson. The Fund Committee shall issue recommendations to the Department of Health and Social Services as often as the Chairperson deems necessary but no less often than annually. Three members shall comprise a quorum and actions by the committee may only be taken by majority vote of those members present. The members shall receive no compensation for their services. Any member who fails to attend 3 consecutive meetings, or who fails to attend at least 1/2 of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from the Fund Committee and a replacement shall be appointed by the Chairperson. The Fund Committee is authorized to adopt such rules and procedures as may be necessary or convenient to accomplish the purposes set forth in this section, including without limitation, the adoption of conflict of interest rules.

(h) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(70 Del. Laws, c. 276 § 2; 70 Del. Laws, c. 476 §§ 1, 2; 78 Del. Laws, c. 235 § 1; 79 Del. Laws, c. 78 § 148; 79 Del. Laws, c. 377 § 3.)

## § 2139G Special license plates for Korean War veterans.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Korean War veteran registration number; provided however, that the owner of the vehicle must possess official documentation which indicates that such owner is a Korean War veteran.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of the Korean War.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided however, that an original application under this section be subject to a $10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) Only 1 such plate shall be issued to an applicant.

(e) The Department shall reserve sufficient special license plates including the letters "KW" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(f) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration. If no spouse exists, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(g) At least 50 members of the organization must apply for the special plate authorized by this section.

(70 Del. Laws, c. 322 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139H Farmland preservation plates.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Division of Motor Vehicles for a special "Farmland Preservation" registration plate.

(b) This section applies to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or smaller manufacturer's rated capacity.

(c) Upon the initial application for a plate to be issued pursuant to this section, a 1-time fee of $50, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for all persons applying for a special plate pursuant to this section, including members of nonprofit organizations, even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division, which shall cover the cost of the plate.

(d) The 1-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles has covered the costs of promoting and administering this section shall be applied pursuant to subsection (e) of this section.

(e) The funds derived by the State from that portion of the 1-time fee of $50 that is not defined as an administrative fee pursuant to subsection (d) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside and deposited with the Delaware Agricultural Lands Preservation Foundation for its deposit in the Delaware Farmland Preservation Fund.

(f) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Farmland Preservation Contest Committee. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. The committee may, at its discretion, drop the wording "The First State" and substitute in place thereof the wording "Preserve Our Farms". The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(g) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(74 Del. Laws, c. 47 § 2.)

## § 2139I Special license plates for holders of Gold Star lapel buttons.

(a)(1) The owner of any vehicle described in subsection (b) of this section may apply to the Department for assignment to that vehicle of a special Gold Star family registration number; provided, however, that the owner of the vehicle qualifies under paragraph (a)(2) of this section.

(2) Special registration may be issued by the Department under this section if the applicant provides sufficient official documentation of being awarded a Gold Star lapel button by the United States Department of Defense in recognition of a close relative's death while serving in the military.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section.

(d) The Department shall reserve sufficient special license plates including the letters "GS" and numbered consecutively beginning with

the numeral "1" as are necessary to implement this section. In addition, any special license plate issued pursuant to this section shall include a gold star and the phrase "Gold Star Family".

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration. If no spouse exists, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(76 Del. Laws, c. 204 § 1; 80 Del. Laws, c. 7 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139J Special license plates for veterans of Operation Iraqi Freedom.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Operation Iraqi Freedom veterans registration number; provided however, that the owner of the vehicle must possess official documentation which indicates that such owner is a veteran of Operation Iraqi Freedom.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of Operation Iraqi Freedom.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided however, that an original application under this section be subject to a $10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapter 13 and 14 of Title 2 to the contrary.

(d) Only 1 such plate shall be issued to an applicant.

(e) The Department shall reserve sufficient special license plates including the letters "OIF" and numbered consecutively beginning with the numeral "1" as are necessary to implement this action.

(f) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration. If no spouse exists, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(76 Del. Laws, c. 204 § 2; 80 Del. Laws, c. 49 § 1.)

## § 2139K Special license plates for Vietnam War veterans.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Vietnam War veteran registration number; provided however, that the owner of the vehicle must possess official documentation which indicates that such owner is a Vietnam War veteran.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of the Vietnam War.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section, provided however, that an original application under this section be subject to a $10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) Only 1 such plate shall be issued to an applicant.

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(f) The Department shall reserve sufficient special license plates including the letters "VV" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(g) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(76 Del. Laws, c. 204 § 3; 80 Del. Laws, c. 49 § 1.)

## § 2139L "Limited edition" special centennial license plates [Expired Dec. 31, 2009; issued plates indefinitely valid per 76 Del. Laws, c. 274, § 2]

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Division of Motor Vehicles for a special centennial registration plate from October 1, 2008, through December 31, 2009.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck or trailer that is not either required to be or voluntarily registered with the International Registration Plan; or

(3) A recreational vehicle.

(c) Upon the initial application for a plate to be issued pursuant to this section, a 1-time fee of $100, which includes an administration fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for all persons applying for this centennial plate. A replacement plate may be obtained upon payment of a $15 fee to the Division.

(d) The 1-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administrative costs.

(e) All registration plates issued pursuant to this section shall be the colors and design as determined by the Division of Motor Vehicles. The number and/or letters assigned will be the same as the current license plate assigned to the vehicle. The Division of Motor Vehicles may, at its discretion, drop the wording "The First State" and substitute in place thereof wording honoring the centennial.

(f) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(76 Del. Laws, c. 274 § 1.)

## § 2139M Law Enforcement Memorial license plate.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Law Enforcement Memorial registration number; provided, however, that the owner of the vehicle must possess documentation:

a. That indicates that such person is a police officer as defined in § 8401(5) of Title 11;

b. That indicates that such person is an immediate family member of a police officer as defined in § 8401(5) of Title 11 who was killed in the line of duty; or

c. From the Delaware Police Chiefs' Council that it is appropriate for such person to receive a special Law Enforcement Memorial registration number.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck or van with a 3/4-ton or smaller manufacturer's rated capacity.

(b) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $35 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purposes of administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(c) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Law Enforcement Memorial License Plate Committee created pursuant to subsection (d) of this section. The license plate may also include words, a slogan or an emblem supporting the Law Enforcement Memorial. The Committee may at its discretion drop the wording "The First State" and substitute in lieu thereof "Law Enforcement Memorial". The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(d) For purposes of this section, the "Law Enforcement Memorial License Plate Committee" shall consist of the following:

(1) The Director of the Division of Motor Vehicles or designee;

(2) The Chairperson of the Delaware Police Chiefs' Foundation or designee;

(3) The Colonel of the Delaware State Police or designee; and

(4) The Chairperson of the Delaware Police Chiefs' Council or designee.

(e) The Department shall reserve sufficient special license plates including the letters "LEM" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(f) The Delaware Police Chiefs' Council shall have the authority to assign the license plate numbers at its discretion.

(g) Upon receipt by the Department of information that the individual to whom the special plate has been issued is no longer affiliated with such organization or has died, whichever is applicable, the Department shall write to such person or the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(h) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(78 Del. Laws, c. 153 § 1.)

## § 2139N Special license plates for veterans of Operation Enduring Freedom.

(a)(1) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Operation Enduring Freedom veterans registration number; provided however, that the owner of the vehicle must possess official documentation which indicates that such owner is a veteran of Operation Enduring Freedom.

(2) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of Operation Enduring Freedom.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided however, that an original application under this section be subject to a $15 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) Only 1 such plate shall be issued to an applicant.

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of paragraph (a)(2) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(f) The Department shall reserve sufficient special license plates including the letters "OEF" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(78 Del. Laws, c. 231 § 1; 80 Del. Laws, c. 49 § 1.)

## § 2139O Marine Education, Research and Rehabilitation Institute, Inc. special license plates.

(a) The owner of a motor vehicle which is a private passenger vehicle or a truck with a 3/4-ton or smaller manufacturer's rated capacity may apply to the Division of Motor Vehicles for a special Marine Education.

(b) Upon the initial application for a license plate to be issued pursuant to this section, a 1-time fee of $50, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(c) The 1-time administrative fee collected pursuant to subsection (b) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund division projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) All license plates issued pursuant to this section shall be of the colors and design requested by the Marine Education, Research and Rehabilitation Institute, Inc. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. No special numbers or letters will be authorized for these plates. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(e) The funds derived by the State from that portion of the 1-time fee of $50 that is not defined as an administrative fee pursuant to subsection (c) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside for use by the Marine Education, Research and Rehabilitation Institute, Inc.

(f) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(78 Del. Laws, c. 240 § 1; 78 Del. Laws, c. 385 § 1.)

## § 2139P Special license plates for Civil Air Patrol Delaware Wing.

(a) The owner of any vehicle described in paragraph (a)(2) of this section may apply to the Department for assignment to that vehicle of a special Civil Air Patrol registration number; provided however, that the owner of the vehicle must possess official documentation from the Civil Air Patrol Delaware Wing and signed by the Delaware Wing commander that indicates that such owner is a member in good standing of the Civil Air Patrol and assigns the registration number to be issued by the Department.

(2) This section applies to:

a. A private passenger vehicle, or

b. A truck with a 3/4-ton or less manufacturer's rated capacity.

(b) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided however, that an original application under this section be subject to a $35 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapter 13 and 14 of Title 2 to the contrary.

(c) Only 1 such plate shall be issued to an applicant.

(d) The Department shall reserve sufficient special license plates including the letters "CAP" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(e) Upon receipt by the Department of information provided by the Civil Air Patrol Delaware Wing that a registrant is no longer a Civil Air Patrol member in good standing, the Department shall write to the registrant requesting that such plate be returned to the Department within 30 days.

(f) At least 25 members of the organization must apply for the special plate authorized by this section.

(78 Del. Laws, c. 255 § 1.)

## § 2139Q Stop child abuse plates.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Division of Motor Vehicles for a special "Stop Child Abuse" registration plate, provided that at least 100 such applications are received by the Division.

(b) This section applies to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or smaller manufacturer's rated capacity.

(c) Upon the initial application for a plate to be issued pursuant to this section, a fee of $50, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for all persons applying for a special plate pursuant to this section, including members of nonprofit organizations, even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division, which shall cover the cost of the plate.

(d) The 1-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles have covered the costs of promoting and administering this section shall be applied pursuant to subsection (f) of this section.

(e) After making the initial application for a plate to be issued pursuant to this section, the owner shall pay a $40 surcharge annually for each plate in addition to the regular registration fee.

(f) The funds derived by the State from that portion of the initial fee of $50 that is not defined as an administrative fee pursuant to subsections (c) and (d) of this section and the $40 surcharge under subsection (e) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be forwarded to the Delaware Community Foundation who, in turn, shall deposit them in the Protecting Delaware's Children Fund.

(g) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Child Protection Accountability Commission. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(h) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(79 Del. Laws, c. 264 § 1.)

## § 2139R Special license plates honoring Delaware veterans.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Division of Motor Vehicles for assignment to that vehicle a special plate "Honoring Our Veterans".

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity.

(c) Upon the initial application for a plate to be issued pursuant to this section, a 1-time fee of $20, which includes an administrative fee of $10, is required in addition to the annual registration fee required by this title. This additional fee is required for all persons applying for a special plate pursuant to this section, including members of nonprofit organizations, even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division, which shall cover the cost of the plate.

(d) The funds derived by the State from that portion of the 1-time fee of $20 that is not defined as an administrative fee pursuant to subsection (c) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside and deposited with the Delaware Commission of Veterans Affairs for its deposit in the Veterans Trust Fund.

(e) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Delaware Commission of Veterans Affairs. The license plate may also include words, a slogan or an emblem honoring Delaware veterans. The Commission may at its discretion drop the wording "The First State" and substitute in lieu thereof "Honoring Our Veterans". The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(f) The Department shall reserve sufficient special license plates including the letters "HV" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(g) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(79 Del. Laws, c. 328 § 1.)

## § 2139S Special license plates for members of the Cancer Support Community.

(a) The owner of any vehicle described in this subsection may apply to the Department for the assignment to that vehicle of a special Cancer Support Community registration, provided that at least 100 such member applications are received by the Department. This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or smaller manufacturer's rated capacity.

(b) Special registration may be issued under this section only if:

(1) The individual applicant states that the applicant is a member of the Cancer Support Community; and

(2) The Cancer Support Community certifies that the individual applicant is an active member of that organization.

(c) No fee in addition to the annual registration fee required by this title is required for registration under this section; however, the

original application under this section shall be subject to a $10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Division of Motor Vehicle projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) The Department shall reserve license plates including the letters "C.S.C." and numbered consecutively beginning with the numeral "1" as are required for this section.

(e) Upon notification from the Delaware Chapter of the Cancer Support Community that an individual is no longer an active member of that organization, the Department shall notify the license plate holder to surrender the license plate to the Department within 30 days.

(79 Del. Laws, c. 417 § 1.)

## § 2139T Special license plates for active members and retired active members of the International Association of Firefighters (IAFF) living in Delaware.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Department for assignment to that vehicle of a special professional firefighter registration number; provided, however, that the owner of the vehicle must possess and present official membership card/ID documentation which indicates that the owner is an active or retired active member of the International Association of Firefighters.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity; or

(3) A van with a 3/4-ton or less manufacturer's rated capacity.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $10 administrative fee which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) The Department shall reserve sufficient license plates and the letters "PF" and number consecutively beginning with the numeral "1" as are necessary to implement this section.

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(80 Del. Laws, c. 223 § 1.)

## § 2139U Special license plates for professional paramedics and retired professional paramedics.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Department for assignment to that vehicle of a special professional paramedic registration number; provided, however, that the owner of the vehicle must possess and present official documentation from the Office of Emergency Medical Services which indicates that the owner is a professional paramedic or a retired professional paramedic.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity; or

(3) A van with a 3/4-ton or less manufacturer's rated capacity.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a $10 administrative fee which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) A minimum of 100 applicants for this plate shall be required prior to issuance of the plate.

(e) Only 1 such plate shall be issued to an applicant.

(f) The Department shall reserve sufficient special license plates including the letters "NR" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section.

(g) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(80 Del. Laws, c. 226 § 1.)

## § 2139V Special license plates for recipients of the Bronze Star without valor.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Department for assignment to that vehicle of a special registration number, provided that the owner of the vehicle must possess official documentation which indicates that such owner is the recipient of a Bronze Star without valor (without the "V" device) while serving in the United States Armed Forces.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity; or

(3) A van with a 3/4-ton or less manufacturer's rated capacity.

(c) No fee in addition to the annual registration fee required by this title is required for registration under this section; however, the original application under this section shall be subject to a $10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section and to fund Department projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(d) Only 1 such plate shall be issued to an applicant.

(e) The Department shall reserve sufficient license plates with the letter "M" and numbered consecutively beginning with the numeral "1" as are required for this section.

(f) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee required by this title is required for registration. If no spouse exists, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within 90 days.

(80 Del. Laws, c. 262 § 1.)

## § 2139W Special license plates for the Delaware Equine Council.

(a) The owner of any vehicle described in subsection (b) of this section may apply to the Division of Motor Vehicles for a special Delaware Equine Council registration plate.

(b) This section applies only to:

(1) A private passenger vehicle; or

(2) A truck with a 3/4-ton or less manufacturer's rated capacity; or

(3) A van with a 3/4-ton or less manufacturer's rated capacity.

(c) Upon the initial application for a license plate to be issued pursuant to this section, a 1-time fee of $50, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(d) The 1-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund division projects notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(e) The funds derived by the State from that portion of the 1-time fee of $50 that is not defined as an administrative fee pursuant to subsection (c) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside for use by the Delaware Equine Council.

(f) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Board of Directors of the Delaware Equine Council. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. No special numbers or letters will be authorized for these plates. The Board of Directors of the Delaware Equine Council may, at its discretion, drop the wording "The First State" and substitute in place thereof "Delaware Equine Council." The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(g) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(80 Del. Laws, c. 351 § 1.)

## § 2140 Special registration plates for members of nonprofit organizations.

(a) The owner of a motor vehicle described in subsection (b) of this section who is a member of a nonprofit organization considered eligible by the Division of Motor Vehicles may apply to the Division for the assignment of a special registration plate for such vehicle.

(b) This section applies only to:

(1) A passenger vehicle;

(2) A truck with a 3/4-ton or smaller manufacturer's rated capacity; or

(3) A van with a 3/4-ton or smaller manufacturer's rated capacity.

(c) The applicant must submit acceptable proof, as required by the Division, that the applicant is a member in good standing or is otherwise eligible for the issuance of such special plate.

(d) No fee in addition to the regular annual registration fee required by this title is required. However, upon the initial application for a special plate issued pursuant to this section, a 1-time administrative fee of $10 shall be assessed.

(e) The 1-time administrative fee collected pursuant to subsection (d) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section, notwithstanding the provisions of Chapters 13 and 14 of Title 2 to the contrary.

(f) [Repealed.]

(g) At least 200 applications for special plates must be received from a specific organization before the Division of Motor Vehicles will approve the issuance. However, the minimum number of 200 shall not apply to the following:

(1) Survivors of Pearl Harbor;

(2) Members of university or high school alumni associations, provided that at least 25 applications for special plates must be received from members of a given university or high school alumni association before the Division of Motor Vehicles will approve the issuance of special plates for that particular university or high school alumni association;

(3) Retired Delaware police officers;

(4) Members of Delaware Nur Temple and the Service Alumni Association, provided that at least 100 applications for special plates must be received from members before the Division of Motor Vehicles will approve the issuance of the special plate;

(5) Members of the Marine Corps League and Delaware Veterans of World War 2 Inc. provided that at least 100 applications for special plates must be received from members before the Division of Motor Vehicles will approve the issuance of the special plate;

(6) Members of the Order of Eastern Star, Knights of Columbus, the Telephone Pioneers of America, Lions Club International and the Senior Olympics, provided that at least 100 applications for special plates must be received from members of any of the said organizations before the Director of Motor Vehicles will approve the issuance of a special plate for that organization, except for the Telephone Pioneers of America who must have a minimum of 75 applications for special plates before the Director of Motor Vehicles will approve the issuance of a special plate for the organization;

(7) Members of "Fraternal Order of Firemen Wilmington Retired Firefighters," provided that at least 50 applications for special plates must be received from members of such organization before the Division of Motor Vehicles will approve the issuance of the special plate;

(8) Members of the "USSVI, Mid-Atlantic Base," the U.S. Submarine Veterans, Inc., organization, provided that at least 35 applications for special plates be received from members of such organization before the Division of Motor Vehicles will approve the issuance of the special plate; and

(9) Members of the "Buffalo Soldiers Motorcycle Club of Delaware," provided that at least 25 applications for special plates must be received from members of such organization before the Division of Motor Vehicles will approve the issuance of the special plate.

(h) The numbers and letters assigned to these special plates must be such that they can be integrated with the Division's computerized vehicle registration records.

(i) The Division of Motor Vehicles may refuse to issue special registration plates when it is deemed not in the best interest of the State.

(j) Upon receipt by the Department of information that the individual to whom the special plate has been issued pursuant to paragraph (g)(1), (g)(5), or (g)(8) of this section is deceased, the surviving spouse may transfer the plate to a vehicle owned by the spouse that meets the requirements of subsection (b) of this section as a valid registration plate. No fee in addition to the annual registration fee otherwise required by this title is required for registration.

(k) The Department upon receipt of any official correspondence from the organization advising that the individual to which a special plate has been issued is no longer affiliated with such organization such special plate shall be forfeited and/or revoked immediately.

(l) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(69 Del. Laws, c. 183 § 1; 70 Del. Laws, c. 9 § 1; 70 Del. Laws, c. 12 § 1; 70 Del. Laws, c. 158 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 200 § 2; 70 Del. Laws, c. 317 § 1; 70 Del. Laws, c. 333 § 1; 70 Del. Laws, c. 417 § 1; 73 Del. Laws, c. 170 §§ 1-4; 76 Del. Laws, c. 204 §§ 4, 6-8; 80 Del. Laws, c. 49 § 1.)

## § 2140A Environmental license plates.

(a) The owner of a motor vehicle may apply to the Division of Motor Vehicles for a special environmental license plate.

(b) Upon the initial application for a plate to be issued pursuant to this section, a 1-time fee of $35, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(c) The 1-time administrative fee collected pursuant to subsection (b) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles has covered the costs of promoting and administering this section shall be applied pursuant to subsection (e) of this section.

(d) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Committee. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. No special numbers or letters will be authorized for these plates. The Committee may at its discretion drop the wording "The First State" and substitute in place thereof an environmental slogan. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(e) The funds derived by the State from that portion of the 1-time fee of $35 that is not defined as an administrative fee pursuant to subsection (c) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside and divided equally between:

(1) The Delaware Center for the Inland Bays; and

(2) The Partnership for the Delaware Estuary, Incorporated.

(f) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.

(70 Del. Laws, c. 281 § 2.)

# Subchapter III
# Inspection of Vehicles

## § 2141 Inspection places.

The Department shall provide and maintain 1 or more places in each county together with such facilities and such number of qualified inspectors as may be required for registration and inspection purposes.

(36 Del. Laws, c. 10 § 24; Code 1935 § 5562; 43 Del. Laws, c. 244 § 13; 21 Del. C. 1953 § 2141.)

## § 2142 Purpose of inspections.

Inspection shall be for the purpose of determining whether a vehicle is in a safe and fit condition to be operated upon the highways of the State, and whether it is equipped in the manner provided by law.

(36 Del. Laws, c. 10 § 24; Code 1935 § 5562; 43 Del. Laws, c. 244 § 13; 21 Del. C. 1953 § 2142.)

## § 2143 Inspection of motor vehicle before registration; exception; vehicles outside State.

(a) Before the Department registers, renews the registration of or reregisters a motor vehicle required to be registered under this title, such vehicle shall first be inspected by the Department and determined to be safe and fit for operation and found equipped according to law. The Department may waive all inspection requirements with respect to the registration of new motor vehicles and the initial registration or renewal of vehicles no older than 5 model years. Upon application, subject to approval by the Secretary, the Department may assign to a motor vehicle dealer the authority to perform safety and vehicle identification number (VIN) inspections on motor vehicles, 5 model years old or newer, as such inspections relate to the motor vehicle's registration or reregistration, provided that the motor vehicle is owned by that motor vehicle dealer and such inspection occurs at a motor vehicle dealer facility.

(b) Upon application, subject to approval by the Secretary, the Department may waive such inspection requirements with respect to the renewal of registration of a vehicle registered in this State which is not in this State at the time the inspection is required, provided that an out of state inspection, certified on forms prescribed by the Secretary, is submitted to the Department. It shall be the duty of the owner of any vehicle so inspected to submit such vehicle for inspection by the Department within 10 days after the date the vehicle is returned to this State.

(c) Upon application, subject to the approval by the Secretary, the Department may waive such registration requirements with respect to new or used motor vehicles where a fleet account is involved. A fleet account shall consist of 15 or more vehicles. The inspection requirements may be waived provided there are adequate inspection and repair facilities at the fleet headquarters. Such fleet account waiver shall not apply to fleets of school buses which transport pupils of any public, parochial or private school of the State.

(d) The Department shall waive the requirement for inspection for those small trailers with a gross weight of vehicle and load of 4,000 pounds or less, which are not required to be equipped with brakes.

(e) The Department shall waive the requirement for inspection for fire trucks, fire engines, rescue trucks, ladder trucks, tank trucks, tank trailers and ambulances which are used by fire companies, and volunteer ambulance and rescue services in this State; provided, that at the time of the renewal of registrations for these vehicles, the principal officer of such company shall present a certification that each vehicle has been inspected by the officer or the officer's designee and that it is safe to operate on the streets and highways and equipped according to law. The waiver shall not apply to passenger cars owned or used by fire companies.

(f) The Department shall waive the requirement for inspection for all vehicles or motor vehicles registered under the International Registration Plan pursuant to Chapter 4 of this title. The Department may adopt rules and/or procedures to implement this subsection.

(36 Del. Laws, c. 10 § 24; 37 Del. Laws, c. 10 § 7; Code 1935 § 5562; 43 Del. Laws, c. 244 § 13; 21 Del. C. 1953 § 2143; 53 Del. Laws, c. 6; 55 Del. Laws, c. 273; 56 Del. Laws, c. 392 § 1; 57 Del. Laws, c. 670 § 8A; 60 Del. Laws, c. 442 § 1; 64 Del. Laws, c. 260 § 1; 66 Del. Laws, c. 98 § 1; 70 Del. Laws, c. 28 § 1; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 18 § 4; 78 Del. Laws, c. 82 § 1; 79 Del. Laws, c. 252 § 1.)

## § 2144 Other inspections; procedure; duty of owner.

(a) At any time and notwithstanding the possession of current registration plates, as provided by this title, the Secretary, or any authorized agent of the Department or any police officer may, upon reasonable cause, require the owner or operator of a vehicle to stop and submit such vehicle and the equipment to such further inspection and test with reference thereto as may be appropriate. In the event such vehicle is found to be in an unsafe condition or lacking the required equipment or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy thereof to the Department. The notice shall require that such vehicle and its equipment be placed in safe condition and in proper repair and adjustment and/or that proper equipment be obtained, and that a certificate of inspection and approval for such vehicle be obtained within 5 days thereafter.

(b) Every owner or driver upon receiving the notice prescribed in subsection (a) of this section shall comply therewith and shall, within the 5-day period, secure an endorsement upon such notice by an inspector of the Department that such vehicle is in safe condition and properly equipped and its equipment in proper repair and adjustment and shall then forward the notice to the Department. No person shall operate any such vehicle after receiving a notice with reference thereto as above provided, except as may be necessary to return such vehicle to the residence or the place of business of the owner or driver if within a distance of 20 miles or to a garage until the vehicle and its

equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this title.

(36 Del. Laws, c. 10 § 24; 40 Del. Laws, c. 38 § 9; Code 1935 § 5562; 43 Del. Laws, c. 244 § 13; 21 Del. C. 1953 § 2144; 57 Del. Laws, c. 670 § 8A; 67 Del. Laws, c. 95 § 1.)

## § 2145 School bus inspection.

All school buses which transport pupils of any public, parochial or private school of this State shall receive a special inspection twice yearly at such time and place as specified by Department regulations. At such inspection each school bus shall be inspected by the Department to determine if it is safe and fit for operation and properly equipped, and a special check shall be accomplished with respect to specific school bus safety features in accordance with the rules and regulations adopted by the Department.

(21 Del. C. 1953 § 2145; 56 Del. Laws, c. 393 § 1.)

## § 2146 Regulation of vehicular flow through inspection places.

The Department shall adopt and enforce by July 1, 1969, such administrative rules and regulations as may be necessary to insure an even distribution of vehicular inspections at the inspection places in each county on a monthly basis.

(21 Del. C. 1953 § 2146; 56 Del. Laws, c. 437 § 1.)

## § 2147 Reconstructed motor vehicles.

(a) Any motor vehicle that is more than 25 years old with a title brand of "reconstructed" that does not qualify to be registered as an antique motor vehicle under this chapter shall be exempt from emissions testing by the Division of Motor Vehicles. The vehicle must continue to meet and be inspected for safety and anti-tampering requirements for its model year.

(b) A vehicle exempt from emissions testing as set forth in subsection (a) of this section shall only be used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event shall it be used for general transportation or 1,000 miles per year.

(c) Vehicles exempted under subsection (a) of this section shall provide a self-certification that the vehicle had not traveled in excess of the mileage allowed under subsection (b) of this section. If this certification is not submitted or the vehicle had traveled in excess of the mileage allowed, the vehicle will be deemed no longer eligible for the exemption.

(79 Del. Laws, c. 242 § 1.)

# Subchapter IV

# Fees

## § 2151 Fee schedule; time of payment.

At the time of application for the registration of a motor vehicle and prior to the issuance of the current registration plates required by this title, there shall be paid to the Department registration fees according to the following schedule:

(1) For the registration of any motorcycle, $15 per year;

(2) For the registration of each motor vehicle commonly used for pleasure or for the chief purpose of carrying persons (except motor vehicles commonly known as passenger buses) and including station wagons, $40 per year;

(3) For the registration of other motor vehicles, including those propelled by diesel engines, $40 per year if the gross load weight does not exceed 5,000 pounds, and an additional $18 per year for each 1,000 pounds or fraction thereof over and above 5,000 pounds. The gross load weight shall be the weight of the chassis, body, equipment and maximum allowable load as specified by the application;

(4) Such vehicles as are authorized to operate or to be moved as provided by § 4504 of this title shall be registered in the same manner as other vehicles. The fee for such registration shall be at the same rate required for trucks and semitrailers;

(5) For the registration of any recreational vehicle or recreational trailer, the fee shall be $40 per year if the gross load weight of the vehicle or trailer does not exceed 5,000 pounds, and in the event the gross load weight exceeds 5,000 pounds, $6.40 per year for each 1,000 pounds or fraction thereof over and above 5,000 pounds. The gross load weight shall be the weight of the chassis, body, equipment and maximum allowable load as specified by the application;

(6) A fee of $20, in addition to the registration fee, shall be imposed at the time of renewal of registration of a motor vehicle or semitrailer if the Delaware registration has expired. This fee shall not be imposed if the registration has expired over 12 months or if a permit has been purchased for the vehicle pursuant to § 2103 of this title. The fee shall not be imposed if a transfer of ownership on the vehicle has taken place or if the motor vehicle or trailer has been inspected prior to the expiration of registration;

(7) Of each of the motorcycle registration fees collected pursuant to paragraph (1) of this section the sum of $4.00 per year is appropriated to the Department of Transportation and shall be placed in a special account to be used only for the expenses incurred in the administration of the motorcycle rider education program and improved motorcycle licensing procedures;

(8) For the registration of motor farm trucks owned and used exclusively by farmers who derive at least $1,000 of their annual income from the operation of their farm and they own or rent at least 10 acres which are actively used in the farming operation from which they derive that income, the fee shall be $40 per year if the gross load weight does not exceed 5,000 pounds, and an additional $3.80 per year for each 1,000 pounds or fraction thereof over and above 5,000 pounds. The gross load weight shall be as calculated in paragraph (3) of

this section, but in no case shall the required fee for motor vehicles, except trailers, under this paragraph be less than $40 per year;

(9) For the registration of farm motor vehicles, farm vehicles, or farm trailers owned and used exclusively by farmers who derive at least $1,000 of their annual income from the operation of their farm and they own or rent at least 10 acres which are actively used in the farming operation from which they derive that income and are operated or towed within a 20-mile radius of a farm owned or managed by the owner of the vehicle or trailer, there shall be a onetime fee of $10;

(10) For the registration of trailers with a gross weight of 1,000 pounds or less the fee shall be $15 per year; if a trailer's gross load weight exceeds 1,000 pounds there shall be an additional fee of $5.00 per year for each 1,000 pounds or fraction thereof over and above the 1,000 pounds up to a maximum of 2,000 pounds. The fee for the registration of trailers with a gross weight exceeding 2,000 pounds shall be as provided in paragraph (3) of this section.

(11) The Secretary of the Department of Transportation in conjunction with the Secretary of the Department of Agriculture shall promulgate such regulations as they shall deem necessary for the administration and implementation of this section.

(36 Del. Laws, c. 10 § 26; 37 Del. Laws, c. 10 § 8; 38 Del. Laws, c. 27 §§ 1, 2; 40 Del. Laws, c. 38 § 1; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 46 Del. Laws, c. 123; 47 Del. Laws, c. 17 § 2; 47 Del. Laws, c. 159; 47 Del. Laws, c. 255 § 3; 47 Del. Laws, c. 332; 48 Del. Laws, c. 62 §§ 1, 2; 21 Del. C. 1953 § 2151; 49 Del. Laws, c. 360; 53 Del. Laws, c. 221 §§ 3, 4; 55 Del. Laws, c. 156 § 2; 55 Del. Laws, c. 176; 58 Del. Laws, c. 363; 59 Del. Laws, c. 57 § 3; 62 Del. Laws, c. 233 § 1; 62 Del. Laws, c. 337 § 1; 64 Del. Laws, c. 207 § 3; 65 Del. Laws, c. 27 §§ 3, 4; 67 Del. Laws, c. 260 § 1; 67 Del. Laws, c. 411 §§ 5-9; 68 Del. Laws, c. 156 §§ 56(a)-(d), (g), 59(a); 69 Del. Laws, c. 77 §§ 59, 60; 69 Del. Laws, c. 217 § 3; 74 Del. Laws, c. 110 § 44; 74 Del. Laws, c. 166 § 2; 74 Del. Laws, c. 383 § 2; 76 Del. Laws, c. 76 §§ 5-10; 79 Del. Laws, c. 210 § 2; 80 Del. Laws, c. 77 § 6.)

## § 2152 Optional provision for tractor trailer units.

(a) The owner of every pickup truck, truck or truck tractor which is used to pull a semitrailer may elect to have the total gross load weight of the pickup truck, truck or truck tractor and semitrailer assessed against the pickup truck, truck or truck tractor and to pay the fees set forth in § 2151(3) of this title by filing with the Department an election form as provided by the Secretary.

(b) Upon election to have the total gross load weight assessed pursuant to subsection (a) of this section, an owner may have not more than 3 semitrailers, as designated by the owner, registered upon the payment of a $40 per year fee for each designated semitrailer. No other fee for registration of the semitrailer shall be required.

(c) The Secretary shall promulgate such rules and regulations as may be necessary to effectuate this section.

(21 Del. C. 1953 § 2151A; 55 Del. Laws, c. 176; 57 Del. Laws, c. 670 § 8A; 60 Del. Laws, c. 192 § 1; 62 Del. Laws, c. 388 § 1; 67 Del. Laws, c. 411 § 10; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 76 § 11.)

## § 2153 Fee for manufacturers', transporters', automotive recyclers' and dealers' plates.

Manufacturers, transporters, automotive recyclers and dealers who qualify under this chapter for special number plates shall pay to the Department for each calendar year $10 for each set of special plates. These special number plates may be issued for 1 or 2 years at a fee of $10 per plate for each year.

(36 Del. Laws, c. 10 § 26; 38 Del. Laws, c. 27 §§ 1, 2; 40 Del. Laws, c. 38 § 1; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2152; 53 Del. Laws, c. 221 § 5; 65 Del. Laws, c. 318 § 3; 67 Del. Laws, c. 411 § 11.)

## § 2154 Special number plates for towed stock cars and other motor vehicles.

(a) An owner of a stock car of the type used for racing may apply to the Department, upon appropriate forms provided by the Department, for a special plate which shall be displayed on the stock car when it is being towed upon the highways.

(b) A person whose business involves towing motor vehicles upon the highways may apply to the Department, upon appropriate forms provided by the Department, for a special plate or plates, which shall be displayed on motor vehicle(s) when being towed upon the highways by such person in the course of such person's business.

(c) Special plates issued pursuant to this section shall not be displayed on trailers, construction vehicles or vehicles being operated under their own power.

(d) Special plates issued pursuant to this section shall contain the words "towed vehicle" which shall distinguish them from other plates issued under this chapter.

(e) Special plates issued pursuant to this section shall not be assigned to a particular vehicle and may be used by the applicant on any towed vehicle except those vehicles excluded under subsection (c) of this section.

(f) The fee for each special plate issued pursuant to this section is $10 per year. The plate may be originally issued or renewed for 1 or 2 years, and shall expire at midnight on December 31 of the year of expiration.

(g) [Repealed.]

(36 Del. Laws, c. 10 § 26; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2153; 49 Del. Laws, c. 71; 64 Del. Laws, c. 367 § 1; 67 Del. Laws, c. 411 § 12; 70 Del. Laws, c. 186 § 1.)

## § 2155 Fees for half-year and quarter-year registration.

The registration fees for vehicles provided by this chapter shall be for a period of 12 months, but if the vehicle is registered or the registration renewed for a 6-month period, the applicant shall pay to the Department 1/2 of the annual registration fee and an additional fee of $1.00. If the registration is renewed for a 3-month period, the applicant shall pay to the Department 1/4 of the annual registration fee and an additional fee of $1.00. A renewal of a registration for a 3-month period shall be permitted only for a motor vehicle which has a gross

registered weight of 18,000 pounds or more.

(36 Del. Laws, c. 10 § 26; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2154; 64 Del. Laws, c. 466 § 8.)

## § 2156 Fee for convertible vehicles, station wagons and suburbans; gross load weight of buses.

(a) The registration fee for all convertible vehicles shall be ascertained upon the basis of the vehicle's gross load weight. It shall be determined which is the greater, the gross load weight as a carrier of persons or the gross load weight as the carrier of property, and the greater gross load weight shall be the basis for calculating the required registration fees. The fee for all station wagons shall be the same as for vehicles used for pleasure as provided in § 2151 of this title.

(b) The gross load weight of buses used for carrying persons shall be ascertained by multiplying the maximum number of persons the vehicle is provided to carry by 150 pounds and adding the result thereby obtained to the weight of the vehicle as specified in the application.

(36 Del. Laws, c. 10 § 26; 38 Del. Laws, c. 27 §§ 1, 2; 40 Del. Laws, c. 38 § 1; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2155; 49 Del. Laws, c. 14 § 1; 55 Del. Laws, c. 156 § 3; 71 Del. Laws, c. 20 § 2; 74 Del. Laws, c. 166 § 3.)

## § 2157 Credit for registration fee on destroyed vehicle.

Whenever the Department is furnished with satisfactory evidence of the destruction of a motor vehicle, either complete or to such an extent as to render it impossible to operate such vehicle as a motor vehicle during the period for which it has been registered, and if the owner thereof desires to register another motor vehicle during the period for which such destroyed motor vehicle was registered, such owner shall be entitled to a credit on the new registration fee of the unexpired portion of the registration fee of the destroyed motor vehicle from the date of the new registration.

(36 Del. Laws, c. 10 § 26; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2156; 62 Del. Laws, c. 190 § 7.)

## § 2158 Fee for duplicate certificate of registration, registration plate or validation sticker.

(a) The fee for a duplicate certificate of registration shall be $10.

(b) The fee for a duplicate registration plate shall be $5.00.

(c) The fee for a duplicate registration validation sticker shall be $5.00.

(36 Del. Laws, c. 10 § 26; Code 1935 § 5564; 45 Del. Laws, c. 287 § 2; 46 Del. Laws, c. 80 § 1; 47 Del. Laws, c. 121; 48 Del. Laws, c. 47; 21 Del. C. 1953 § 2157; 53 Del. Laws, c. 221 §§ 6, 7; 65 Del. Laws, c. 178 § 2; 80 Del. Laws, c. 77 §§ 11, 12.)

## § 2159 Motor vehicles exempt from registration fees; plates for ambulances and fire and rescue trucks.

(a) The following motor vehicles shall be registered but shall be exempt from the payment of registration fees:

(1) All motor vehicles of the State or any governmental agency thereof, including school buses owned by private contractors holding valid pupil transportation contracts with a school district or with the State Board of Education, or of any fire department, fire engine company, police department or any county or incorporated city or town thereof, used exclusively in the performance of the principal's, official's, employee's or agent's respective functions or duties;

(2) All motor ambulances owned and used by any agency in this State for charitable purposes or for the benefit of any hospital or hospitals in this State;

(3) All motor vehicles owned by any veteran's organization and used by such organization in charitable or public welfare work;

(4) All motor vehicles owned and used by the Delaware Civil Air Patrol (CAP) registered in this State and used by such organization for its respective functions or duties;

(5) All motor vehicles owned by the American Red Cross and used by such organization in charitable or public welfare work;

(6) All motor vehicles owned by the Salvation Army and used by such organization in charitable or public welfare work;

(7) All motor vehicles owned by any organization exempt from tax under § 501(c)(3) of the Internal Revenue Code [26 U.S.C. § 501(c)(3)] and used by such organization in charitable or public welfare work;

(8) All motor vehicles owned by a nonprofit educational foundation organized to promote instructional effectiveness and educational achievement.

The Secretary shall furnish, without cost, certain number and registration plates for all such vehicles, of such design as will distinguish them from other plates for which fees are paid. Number and registration plates for certain motor vehicles of the fire departments and fire companies of this State shall have such design and bear such numbers, words and letters as are provided in subsection (b) of this section. Nothing herein contained shall be construed as exempting such vehicles from the requirement of inspection.

(b) Number and registration plates furnished by the Secretary to fire departments and fire companies of this State for ambulances, fire trucks and rescue trucks shall have displayed thereon:

(1) The capital letter "A" followed by the fire station or fire company number for ambulance plates;

(2) The capital letter "FD" followed by the fire station or fire company number for fire truck plates; and

(3) The capital letter "R" followed by the fire station or fire company number for rescue truck plates.

In addition, such plates shall have displayed thereon the word "Delaware," the words "THE FIRST STATE," the expiration date of the plates, the vehicle number assigned to the vehicle by the fire company, department or other proper official or organization and red letters on white background.

(36 Del. Laws, c. 11; Code 1915 § 236A; 36 Del. Laws, c. 10 § 27; Code 1935 § 5565; 43 Del. Laws, c. 244 § 16; 21 Del. C. 1953 § 2158; 57 Del. Laws, c. 342 §§ 1-3; 57 Del. Laws, c. 670 § 8A; 58 Del. Laws, c. 36; 65 Del. Laws, c. 262 § 1; 65 Del. Laws, c. 348 § 258; 66 Del. Laws, c. 41 § 1; 66 Del. Laws, c. 271 §§ 1, 2; 67 Del. Laws, c. 46 § 50(a); 75 Del. Laws, c. 33 § 1.)

### § 2160 Optional 5-year registration plates for trailers.

(a) The owner of a fleet of trailers, meeting the requirements specified under § 2143(c) of this title, may elect to register such trailers for a 5-year period, by making application to the Department in accordance with this section.

(b) The application shall be made on a form and contain information as prescribed by the Secretary. Upon payment of the required fees and upon meeting other requirements prescribed by the Secretary, there shall be issued, to each vehicle for which application has been made, a registration plate and validation sticker which shall be valid for 5 years, provided that all requirements of this section are complied with.

(c) At the time application for registration or renewal of registration is made under this section, the applicant shall pay all fees required under this title for the first year of the 5-year plate. The applicant shall submit acceptable evidence of a surety bond in a form and with a surety approved by the Secretary and in an amount equal to the total registration fees required for all vehicles registered pursuant to this section to the applicant for the remaining 4 years.

(d) The owner is required to pay all registration renewal fees for vehicles registered pursuant to this section on an annual basis prior to the expiration date of such registrations.

(e) The Secretary may adopt rules and regulations necessary for the administration and enforcement of this section.

(60 Del. Laws, c. 294 § 1.)

### § 2160A Issuance of vehicle registration expiration notice upon request.

Upon request by a vehicle owner, the Department shall mail a vehicle registration expiration notice 40 days prior to the expiration of the registration for the vehicle. A minimum fee of $1.00 per notice to cover the cost of this service shall be paid to the Department at the time the request is made. The amount of the fee shall be revised annually by the Department pursuant to § 6531 of Title 29 to reflect the true cost of this service.

(60 Del. Laws, c. 381 § 1.)

## Subchapter V

## Refusal or Cancellation of Registration; Appeals

### § 2161 Grounds for refusal to grant registration.

The Department shall not grant an application for the registration of a motor vehicle when:

(1) The applicant is not entitled thereto under this title;

(2) The applicant has neglected or refused to furnish the Department with the information required in the appropriate official form or to give reasonable additional information required by the Department;

(3) Fees required therefor by law have not been paid;

(4) The vehicle is in an unsafe and unfit condition to be operated upon the highways of this State and when it is not equipped in the manner provided by law.

(36 Del. Laws, c. 10 § 23; 38 Del. Laws, c. 29 § 1; Code 1935 § 5561; 43 Del. Laws, c. 244 § 12; 21 Del. C. 1953 § 2161.)

### § 2162 Rescission, cancellation or suspension of registration.

(a) The Department shall rescind, cancel or suspend the registration of a motor vehicle whenever the person to whom the registration card or registration or number plates therefor have been issued makes or permits to be made any unlawful use of the card or plates or permits the use thereof by a person not entitled thereto.

(b) The Department shall rescind, cancel or suspend the registration of any motor vehicle if it is determined by the Department that such motor vehicle should not have been registered in this State or that the person to whom the registration card or registration or number plates therefor have been issued is not the owner of the vehicle or that such person has made or permitted to be made illegal use of the motor vehicle.

(c) The Department shall rescind, cancel or suspend the registration of any motor vehicle and shall rescind, cancel, or suspend and shall take up the current registration plates of any motor vehicle which is determined by the Department at any time, upon inspection pursuant to this chapter, to be unsafe or unfit to be operated or to be not equipped as required by law.

(d) The Department shall rescind, cancel or suspend the registration of a commercial motor vehicle if the commercial motor carrier responsible for its safety has been prohibited from operating by a federal agency.

(36 Del. Laws, c. 10 § 24; 38 Del. Laws, c. 29 § 2; Code 1935 § 5562; 43 Del. Laws, c. 244 § 13; 21 Del. C. 1953 § 2162; 76 Del. Laws, c. 116 § 1.)

### § 2163 Appeal from decision of Department.

An appeal to the Superior Court of the county wherein the registrant resides may be taken from any decision of the Department refusing, rescinding, cancelling or suspending the registration of any motor vehicle.

(36 Del. Laws, c. 10 § 24; 38 Del. Laws, c. 29 § 2; Code 1935 § 5562; 43 Del. Laws, c. 244 § 13; 21 Del. C. 1953 § 2163.)

### § 2164 Registration and inspection of motor vehicles of disabled veterans.

Any motor vehicle owned by a veteran with a disability who shall ever have been eligible for certain benefits under 38 U.S.C. § 1901 et seq. or Public Law 538, 93rd Congress shall be registered, but shall be exempt from the payment of registration fees; provided that such exemption shall be limited to 1 automobile per eligible veteran at any 1 time. The Secretary shall furnish, without cost, number and registration plates for all such vehicles of such design as will distinguish them from other plates for which fees are paid. Nothing herein contained shall be construed as exempting such vehicles from the requirement of inspection.

(21 Del. C. 1953 § 2164; 57 Del. Laws, c. 413; 60 Del. Laws, c. 557 § 1; 63 Del. Laws, c. 361 § 1; 79 Del. Laws, c. 371 § 16.)

## Subchapter VI

## Taxicabs and Limousines

### § 2171 Operation of unregistered taxicab or limousine; exception.

No person shall drive or move, nor shall any person, being the owner of a taxicab or limousine, knowingly permit to be driven or moved upon any highway, any taxicab or limousine which is not registered as a taxicab or limousine and for which a certificate of title has not been issued or applied for, or for which current taxicab or limousine registration plates have not been issued, as provided in this title, or for which the appropriate fees have not been paid when and as required by this chapter, except that when application accompanied by the proper fee has been made for taxicab or limousine registration and certificate of title for a vehicle, it may be operated temporarily pending complete registration upon displaying a duplicate application duly verified or other evidence of such application, or otherwise under rules and regulations promulgated by the Department.

(Code 1935 § 5719a; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2171; 49 Del. Laws, c. 220 § 22; 62 Del. Laws, c. 354 § 1; 77 Del. Laws, c. 141 § 10.)

### § 2172 Number plates.

(a) The Department shall furnish for each vehicle registered as a taxicab or limousine 1 number plate as hereinafter provided. Upon the termination of the lawful use of any such plates, they shall be returned to the Department.

(b) The number plate shall have displayed thereon the taxicab or limousine registration number assigned to the vehicle and the name of this State, which may be abbreviated. Each number plate shall bear a distinctive word, letter or marking which shall be designated by the Department for the purpose of identifying taxicabs and limousines.

(Code 1935 § 5719g; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2179; 62 Del. Laws, c. 354 § 1; 77 Del. Laws, c. 141 §§ 11, 12.)

### § 2173 Marking of taxicabs.

Every motor vehicle which is at any time used as a taxicab or which is intended to be used as a taxicab on any highway shall have painted thereupon in distinctive color and shall at all times bear the word "TAXI," in letters having height of at least 4 inches and a width of at least 1 inch. The word "TAXI" shall appear on the front and rear of the body of the taxicab, and shall be so located that it shall be plainly visible from a height of 4 feet.

(Code 1935 § 5719i; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2182; 62 Del. Laws, c. 354 § 1.)

### § 2174 Penalties.

Whoever violates this subchapter shall for the first offense be fined not less than $25 nor more than $100. For each subsequent like offense, such person shall be fined not less than $100 nor more than $200, or imprisoned not less than 10 nor more than 30 days, or both.

(Code 1935 § 5719hh; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2194; 62 Del. Laws, c. 354 § 1; 65 Del. Laws, c. 503 § 9; 70 Del. Laws, c. 186 § 1.)

## Subchapter VII

## Antique Motor Vehicles

### § 2196 Special antique motor vehicle plates.

(a) Upon application, the Department may furnish to the owner of a registered antique motor vehicle a special antique motor vehicle plate to be displayed on such antique motor vehicle. This special plate shall be issued in addition to the plate already issued for such vehicle under this chapter.

(b) The term "antique motor vehicle" includes every automobile, truck, motorcycle or other motor vehicle, but not a reproduction thereof,

manufactured more than 25 years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformity with manufacturer's specifications. A vehicle which has undergone substantial alterations from its original specifications and appearance, or has had its horsepower or dimensions changed, shall not be eligible for an antique license plate pursuant to this section.

(c) Any antique motor vehicle, registered pursuant to this section, shall be used only for participation in club activities, exhibits, tours, parades and similar uses, but in no event shall it be used for general transportation.

(d) Such special antique motor vehicle license plate shall be issued for a fee of $25 and shall be valid without further payment of a renewal fee as long as the vehicle is in existence and is owned by the same person. This fee shall be in addition to the vehicle document fee, title fee or other fees required by this title.

(e) In the event of a transfer of ownership of an antique motor vehicle registered with a special plate pursuant to this section, the transferor shall surrender the special plate to the Department.

(21 Del. C. 1953 § 2196; 50 Del. Laws, c. 283 § 1; 57 Del. Laws, c. 670 §§ 8A-8C; 62 Del. Laws, c. 206 § 1; 64 Del. Laws, c. 364 § 1; 72 Del. Laws, c. 336 § 2.)

## § 2197 Street rods.

(a) If any modified antique motor vehicle manufactured prior to 1970, hereinafter referred to as a "street rod," is duly registered in the State, the owner of such street rod may apply to the Secretary of the Department of Transportation, on special application forms prescribed by the Secretary, for a special street rod motor vehicle plate, to be displayed on such street rod in lieu of the standard vehicle registration plate.

(b) Any street rod, registered pursuant to this section, shall be used only for participation in club activities, exhibits, tours, parades and similar uses, but in no event shall it be used for general transportation.

(c) Upon receipt of an application for a special street rod motor vehicle plate on a form prescribed by the Secretary, the Secretary shall issue to such applicant a special street rod motor vehicle plate on a permanent basis, and it shall bear the inscription "STREET ROD" with yellow letters on a blue background. In addition, such plates shall have displayed thereon the word "DELAWARE," the words "THE FIRST STATE," the expiration date of the plates and the vehicle number assigned to the vehicle by the Secretary. This special plate shall be issued for the applicant's use only for such motor vehicle, and in the event of a transfer of title, the transferor shall surrender the special plate to the Secretary.

(d) Upon approval of the application the Secretary shall assess the applicant an initial fee of $25, in addition to the registration fee levied under this chapter. The special plate shall be renewed upon payment of the registration fee levied under this chapter. Applicants shall, in addition to the prescribed registration validation sticker, be required to display a valid National Street Rod Association safety inspection sticker.

(e) A "street rod" shall mean a vehicle, the body and frame of which were manufactured prior to the year 1970 and which has been modified for safe road use, or a kit car which resembles that of an original pre-1970 vehicle and has also been modified for safe road use. For the purposes of this section "modified" means, but is not limited to, a substantial and material alteration, or replacement of the engine, drive-train, suspension or brake system or alteration of the body which may be chopped, channeled, sectioned, filled or otherwise changed dimensionally from the original manufactured body.

(f) Street rod requirements:

(1) Door latches. — Every street rod that is equipped with doors leading directly into a compartment that contains 1 or more seating accommodations shall be equipped with mechanically or electrically activated door latches which firmly and automatically secure the door when pushed closed and which allow each door to be opened from the inside by the activation of a convenient lever handle or other suitable device.

(2) Glazing — Every street rod shall be equipped with a laminated safety glass windshield that complies with the provisions appearing in the current ANSI Z26.1 Standard, AS1 or AS10. The windshield shall be in such a position that it affords continuous horizontal frontal protection to the driver and front seat occupants.

The minimum vertical height of the windshield glass shall be not less than 7 inches, or as originally equipped by a recognized manufacturer.

a. Side and rear glass. — These items are not required, but if they are present, they must comply with the provisions of current ANSI Z26.1 Standard. (AS1, AS2, AS4, AS6, AS10, or AS11.)

b. Window tinting — Shall be allowed only as permitted in Delaware Motor Vehicle Regulations, § 4313 of this title and [former] Division of Motor Vehicles Policy Regulation number 76 [see now CDR 2-2200-2277].

(3) Hood latches — A front opening hood should be equipped with a primary and a secondary latching system to hold in a closed position.

(4) Hood —

a. Hoods on street rods shall be optional, but if the hood, top and/or sides are removed from the vehicle, the fan must be enclosed within a shroud of substantial rigid material to prohibit anyone from inadvertently being injured and to prevent the fan from flying up from the engine compartment should it become loose.

b. Protrusions from engine compartment shall be no more than 6 inches above the highest point of the hood, or when the hood has been removed 6 inches above the highest point of the hood's normal location.

(5) Instrumentation & controls —

a. Speedometer — Every street rod shall be equipped with an operating speedometer calibrated to indicate "miles per hour."

b. Odometer — Every street rod shall be equipped with an operating odometer calibrated to indicate "total miles driven."

c. Steering wheel — Every street rod shall be equipped with a circular steering wheel with an outside diameter of not less than 13 inches.

(6) Rear view mirror — Every street rod shall be equipped with 2 rear view mirrors, each providing a clear field of vision 200 feet to the rear.

One shall be mounted on the inside of the vehicle in such a position that it affords the driver a clear view to the rear. The other shall be mounted on the outside of the vehicle on the driver's side in such a position that it affords the driver a clear view to the rear. When an inside mirror does not give a clear view to the rear due to window tint or other obstructions, a right-hand outside mirror shall be required in lieu thereof. The mirror mounting shall provide for mirror adjustment by tilting in both horizontal and vertical directions.

(7) Seat belts —

Every street rod shall be equipped with a safety belt system for each occupant of the vehicle. Any such safety belt system must at a minimum be a Type 1 (lap belt) and must meet Federal Motor Vehicle Safety Standard 209. All safety belts systems shall be securely anchored to the body or frame.

(8) Windshield wipers — Every street rod shall be equipped with at least 1 windshield wiper installed in a position which effectively clears the windshield area directly in front of the driver. The operation of the windshield wiper shall be controlled by the driver from within the vehicle and shall be electrically or vacuum-operated.

(9) Accelerator control system — Every street rod shall be equipped with an accelerator control system that returns the engine throttle to an idle position when the driver removes the actuating force from the accelerator control.

(10) Service brakes — Every street rod shall be equipped with hydraulic brakes acting on all wheels. The service brakes, upon application, must meet all the requirements as specified in the Delaware Motor Vehicle Regulations, § 4303 of this title.

(11) Parking brakes — Shall meet all the requirements of the Delaware Motor Vehicle Regulations, § 4304 of this title.

(12) Bumpers — Shall be optional on street rods.

(13) Exhaust systems — Every street rod shall be equipped with an exhaust system that is free of leaks including the exhaust manifolds (including headers), the piping leading from the flange of the exhaust manifold(s) and the tail piping.

Exhaust systems on street rods shall discharge the exhaust fumes at a location to the rear of the vehicle body or direct the exhaust fumes outward from the side of the vehicle body at a location rearward of any operable side windows. No part of the exhaust system shall pass through any area of the vehicle that is used as a passenger carrying compartment. Every street rod must be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise. Muffler cutouts or mufflers without internal baffle plates are prohibited.

(14) Fenders — Street rods shall have fenders on all wheels that cover the entire tread width of the tire that comes in contact with the road surface. Coverage of the tire tread circumference shall be from at least 15 degrees in front to at least 75 degrees to the rear of the vertical center line at each wheel, measured from the center of wheel rotation.

(15) Fuel systems — Every street rod shall have all fuel system components, such as tank tubing, hoses, clamps, etc., securely fastened to the vehicle with fasteners designed for this purpose so as not to interfere with the vehicles' operation and shall be leak proof.

Fuel lines shall be positioned so as not to be in contact with high temperature surfaces or moving components.

(16) Steering — A street rod shall have no steering components extending below the wheel rims in their lowest position. The use of unconventional steering components such as chain drive, sprockets or electric solenoids shall be prohibited. The steering system shall remain unobstructed when turned from lock to lock.

(17) Suspension — A street rod shall be equipped with a damping device at each wheel.

(18) Tires & wheels — The tires and wheels on street rods shall comply with current Federal Motor Vehicle Safety Standards (D.O.T. approved). All tires must be grooved and have 3/32" tread depth minimum.

(19) Electrical system —

a. Lighting —

1. Street rods shall have a minimum of 2 headlights.

2. All headlights must be equipped with 2-position dimmer switch which will lower and raise the candle power of the headlights. Rheostat type switch not allowed.

3. Vehicle must be equipped with taillight, brake lights and a license plate light which illuminates the license plate.

4. Two taillights and 2 brake lights required. Each light shall provide 6 square inches of luminous lens area unless a National Street Rod Association inspector verifies the lights are original equipment.

5. All replacement lenses shall be made of approved reflective material.

6. Street rods shall have turn signals, front and rear. Each turn signal shall provide 6 square inches of luminous lens area, unless a National Street Rod Association inspector verifies the turn signals are original equipment.

b. Horn — Every street rod shall be equipped with a horn that is electrically operated and that will emit a minimum sound level of 92 db(A) measured at a distance of 200 feet directly in front of the vehicle under clear weather conditions. The switch used to

actuate the horn shall be easily accessible to the driver when operating the vehicle.

(20) Automatic transmission lockout — Street rods equipped with an automatic transmission shall have a neutral safety switch which allows the vehicle to start in either neutral and/or park only.

(21) Emission — Street rods shall be exempt from state and federal emission standards.

(61 Del. Laws, c. 62 § 2; 67 Del. Laws, c. 411 §§ 13, 14; 71 Del. Laws, c. 321 § 1; 72 Del. Laws, c. 336 § 1; 74 Del. Laws, c. 110 §§ 45, 46; 76 Del. Laws, c. 207 §§ 1, 2; 79 Del. Laws, c. 256 § 1.)

## § 2198 Inspection.

(a) A motor vehicle registered as an antique motor vehicle shall be exempt from annual inspection. A motor vehicle must pass an initial inspection prior to the motor vehicle being registered as an antique motor vehicle. Motor vehicles registered as antique motor vehicles shall be provided EXEMPT validating stickers in lieu of the usual expiration date stickers upon passing the initial inspection.

(b) A motor vehicle registered as a street rod shall be exempt from annual inspection. A street rod must pass an initial inspection as prescribed in § 2197(f) of this title (street rod requirements), prior to the motor vehicle being registered as a street rod.

(21 Del. C. 1953 § 2198; 50 Del. Laws, c. 283 § 1; 59 Del. Laws, c. 338 § 1; 61 Del. Laws, c. 62 § 1; 62 Del. Laws, c. 28 § 1; 67 Del. Laws, c. 411 § 15; 72 Del. Laws, c. 336 § 1; 73 Del. Laws, c. 261 § 1; 76 Del. Laws, c. 207 §§ 3, 4.)

# Part II
# Registration, Title and Licenses
# Chapter 23
# TITLE AND LIENS
## Subchapter I
## Certificates of Title

### § 2301 Certificate of title required before vehicle registered or operated.

(a) The Department shall not register or renew the registration of any motor vehicle or truck tractor unless and until the owner thereof makes application for and is granted an official certificate of title for such vehicle or presents satisfactory evidence that a certificate of title for such vehicle has been previously issued to such owner by the Department.

(b) The owner of a motor vehicle registered in this State shall not operate or permit the operation of any such vehicle upon any highway without first obtaining a certificate of title therefor from the Department nor shall any person operate any such vehicle upon the highways knowing or having reason to believe that the owner has failed to obtain a certificate of title therefor.

(c) The Department shall not register any motor vehicle, truck tractor, trailer or motorcycle after July 1, 1969, until the motor vehicle document fee imposed by § 3002 of Title 30 has been paid to the Department, unless such motor vehicle is exempted from such fee by § 3002 of Title 30.

(d) The Department shall not transfer the title of a mobile home or house trailer to a new owner until all county taxes levied by the jurisdiction in which the trailer is located have been paid in full. The Receiver of Taxes and County Treasurer of Kent County may charge a fee in such amount as is established by the Kent County Levy Court for issuing a letter of certification as to the county taxes.

(36 Del. Laws, c. 10 § 34; Code 1935 § 5572; 21 Del. C. 1953 § 2301; 57 Del. Laws, c. 136 § 29; 57 Del. Laws, c. 188 § 39; 63 Del. Laws, c. 239 § 1; 64 Del. Laws, c. 74 § 1.)

### § 2302 Application for certificate of title.

(a) Every application for an original certificate of title shall be made upon the appropriate form furnished or approved by the Department and shall contain a full description of the motor vehicle including the name of the maker, the vehicle serial number or any number as may be assigned by the Department and any distinguishing marks thereon and whether the vehicle is new or used, together with a full and complete statement of each and all liens or encumbrances, if any, upon the motor vehicle. The application shall also contain a statement of the name and address of the person to whom the certificate of title shall be delivered and such other information as the Department may require. If the applicant desires a certificate of title in transfer-on-death form, the application shall contain the information required pursuant to § 2304 of this title. Every application shall be accompanied by the required fee. Whenever a new motor vehicle is purchased from a dealer the application for a certificate of title shall also include a statement of transfer by the dealer and a certificate of origin therefor.

(b) The owner shall certify, under penalty of perjury, that the statements made on the application for a certificate of title are true and correct to the best of the owner's knowledge, information and belief.

(c) No application for an original certificate of title shall be accepted by the Department from any person under 18 years of age unless said certificate stating consent to said application is signed by at least 1 parent or guardian of said person.

(d) Any person who purchases for consideration, receives by gift or otherwise receives or acquires in any transaction any new or used trailer after July 1, 1969, shall apply to the Department for an original certificate of title for such trailer. Such application shall be made upon the appropriate form furnished or approved by the Department and shall contain a full description of the trailer including the name of the maker, the trailer serial number or any number as may be assigned by the Department, and any distinguishing marks thereon and whether said trailer is new or used, together with a full and complete statement of each and all liens or encumbrances, if any, upon the trailer. The application shall also contain a statement of the name and address of the person to whom the certificate of title shall be delivered and such other information as the Department may require. The Department shall not issue the original certificate of title until the document fee imposed by § 3002 of Title 30 has been paid to the Department.

(e) When a mobile home, park trailer or house trailer is sold by a Delaware licensed mobile home dealer the dealer shall be responsible for immediately submitting the application for certificate of title, related documents and all fees to the Division of Motor Vehicles for the purpose of securing a title.

(32 Del. Laws, c. 8; Code 1915 § 254K; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 36 Del. Laws, c. 10 §§ 8, 35; 37 Del. Laws, c. 10 § 3; 38 Del. Laws, c. 28 § 1; 40 Del. Laws, c. 32; Code 1935 §§ 5546, 5573; 43 Del. Laws, c. 244 § 2; 21 Del. C. 1953 § 2302; 50 Del. Laws, c. 182 § 2; 54 Del. Laws, c. 365 § 1; 57 Del. Laws, c. 75; 57 Del. Laws, c. 188 § 25; 57 Del. Laws, c. 670 § 9A; 58 Del. Laws, c. 112 § 1; 58 Del. Laws, c. 511 § 40; 63 Del. Laws, c. 239 § 2; 64 Del. Laws, c. 466 § 9; 69 Del. Laws, c. 72 § 1; 69 Del. Laws, c. 454 § 4; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 274 § 1.)

### § 2303 Bill of sale for new vehicle.

When the application for a certificate of title refers to a new vehicle purchased from a dealer, the application shall be accompanied by the bill of sale or other written statement of the sale by the dealer, which bill of sale or statement shall show any lien upon the vehicle retained by the dealer.

(36 Del. Laws, c. 10 § 8; Code 1935 § 5546; 43 Del. Laws, c. 244 § 2; 21 Del. C. 1953 § 2303.)

## § 2304 Certificate of title; transfer-on-death.

(a) A motor vehicle may be titled in transfer-on-death form by including in the certificate of title a designation of a beneficiary or beneficiaries to whom the motor vehicle shall be transferred on death of the owner or the last to die of 2 or more owners with right of survivorship, subject to the rights of all lien holders, whether created before, simultaneously with, or after the creation of the transfer-on-death interest. A trust may be the beneficiary of a transfer-on-death certificate of title.

(b) A motor vehicle is titled in transfer-on-death form by designating in the certificate of title, the name of the sole owner, or the names of the owners who own the motor vehicle as tenants in common, tenants by the entirety or joint tenants with right of survivorship, followed in substance by the words "transfer on death to [name of beneficiary or beneficiaries]." Instead of the words "transfer on death to" the abbreviation "TOD" may be used.

(c) The transfer-on-death beneficiary or beneficiaries shall have no interest in the motor vehicle until the death of the owner or the last to die of all multiple owners with right of survivorship. A beneficiary designation may be changed at any time by the owner or all then surviving multiple owners with right of survivorship, without the consent of the beneficiary or beneficiaries, by filing an application for a subsequent certificate of title.

(d) Ownership of a motor vehicle titled in transfer-on-death form, for which an application for a subsequent certificate of title has not been filed, shall vest in the designated beneficiary or beneficiaries on the death of the owner or the last to die of all multiple owners with right of survivorship, subject to the rights of all lien holders. If no beneficiary survives the death of the owner or the last to die of all multiple owners with right of survivorship, then such interest in the motor vehicle belongs to the estate of the deceased owner or the last to die of all multiple owners with right of survivorship.

(e) A certificate of title in transfer-on-death form shall not be considered a testamentary disposition.

(78 Del. Laws, c. 274 § 2.)

## § 2305 Fee [For applicability of this section, see 80 Del. Laws, c. 77, § 23]

The fee for issuing a certificate of title for a vehicle shall be $35. Such fee shall be in addition to any fee charged for registration of the vehicle.

(32 Del. Laws, c. 8; Code 1915 § 254K; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 36 Del. Laws, c. 10 §§ 26, 35; 38 Del. Laws, c. 27 §§ 1, 2; 38 Del. Laws, c. 28 § 1; 40 Del. Laws, c. 32; 40 Del. Laws, c. 38 § 1; Code 1935 §§ 5564, 5573; 43 Del. Laws, c. 244 § 15; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2305; 53 Del. Laws, c. 221 § 12; 65 Del. Laws, c. 178 § 3; 68 Del. Laws, c. 156 § 60(a); 76 Del. Laws, c. 76 § 13; 80 Del. Laws, c. 77 § 18.)

## § 2306 Certificate of title; issuance.

(a) The Department, when satisfied that the applicant for a certificate of title is the owner of the motor vehicle, shall thereupon issue in the name of the owner a certificate bearing a serial number and the signature of the Secretary, under the seal of the Secretary's office. The certificate of title shall contain the same information as is required upon the face of the registration card except that the period of registration shall be omitted. The Department may make address and vehicle registered weight changes to the vehicle record and registration card without issuing a new title.

(b) The certificate of title shall also contain a space for the signature of the owner in order to validate the same and forms for assignment of title or interest and warranty thereof by the owner with a space for notation of liens and encumbrances upon the vehicle at the time of a transfer. If an owner has elected to have a title issued in transfer-on-death form, then the title shall also contain the designations made by the owner pursuant to § 2304 of this title.

(c) The certificate of title shall be delivered to the registered owner unless another person has been named to receive the certificate in the application, in which event the certificate shall be delivered to such person.

(d) The Department shall not issue a certificate of title to any person under 18 years of age unless at least 1 parent or guardian of said person shall sign said certificate stating consent to the issuance of same.

(e) If a licensed dealer holds for sale a motor vehicle, truck tractor or trailer, or any other vehicle required by this title to be registered or titled by the Department, and transfers or sells such motor vehicle, truck tractor, trailer or other vehicle to someone other than another licensed dealer who holds such vehicle for sale, the dealer shall:

(1) Comply with this chapter; and

(2) Within 30 days of the date of delivery of the vehicle to the purchaser or transferee, transmit to the Department the application for certificate of title and such other accompanying documents and fees as are required by the Department; or

(3) Within 10 days of the date of delivery of the vehicle, transmit to the purchaser or transferee of such vehicle the application for certificate of title and such other accompanying documents as are required by the Department, in which case the purchaser or transferee shall submit the application and other documents to the Department within 30 days of the date of delivery of the vehicle.

(4) If, due to extenuating circumstances, the dealer or purchaser or transferee is unable to transmit the application to the Department

within 30 days of the date of delivery of the vehicle, the Director in the Director's discretion may grant an extension of time within which the dealer, purchaser or transferee must do so.

(36 Del. Laws, c. 36 §§ 10, 36; 38 Del. Laws, c. 28 § 2; Code 1935 §§ 5548, 5574; 43 Del. Laws, c. 244 § 5; 21 Del. C. 1953 § 2306; 54 Del. Laws, c. 365 § 2; 57 Del. Laws, c. 75; 57 Del. Laws, c. 670 § 9A; 58 Del. Laws, c. 511 § 41; 64 Del. Laws, c. 466 § 11; 69 Del. Laws, c. 71 § 1; 69 Del. Laws, c. 72 § 2; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 274 § 3.)

## § 2307 Duration of certificate.

The certificate of title shall be good for the life of the motor vehicle so long as the vehicle is owned or held by the original holder of such certificate.

(36 Del. Laws, c. 10 § 36; 38 Del. Laws, c. 28 § 2; Code 1935 § 5574; 21 Del. C. 1953 § 2307.)

## § 2308 File of surrendered certificates of title; return of certificates to issuing jurisdictions.

The Department shall retain and appropriately file every surrendered certificate of title or copy thereof. The file is to be so maintained as to permit the tracing of title of the vehicles designated therein. Certificate of title issued by other jurisdictions may be returned to those jurisdictions at the discretion of the Director of Motor Vehicles.

(36 Del. Laws, c. 10 § 38; Code 1935 § 5576; 21 Del. C. 1953 § 2308; 62 Del. Laws, c. 190 § 11; 65 Del. Laws, c. 352 § 1.)

## § 2309 Duplicate certificates; fee.

In the event of the loss of a certificate of title, the loss of which is accounted for to the satisfaction of the Department, a duplicate or substitute may be issued, the charge therefor to be $50.

(36 Del. Laws, c. 10 §§ 26, 40; Code 1935 §§ 5564, 5578; 43 Del. Laws, c. 244 § 15; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2309; 64 Del. Laws, c. 366 § 1; 67 Del. Laws, c. 260 § 1; 68 Del. Laws, c. 156 § 60(b); 76 Del. Laws, c. 76 § 14; 80 Del. Laws, c. 77 § 10.)

## § 2310 Altered or changed serial number.

The owner of a motor vehicle, the serial number of which has been altered, removed or defaced, may make application for a special number in the form prescribed by the Department accompanied by a fee of $2.00. The applicant shall furnish such information as will satisfy the Department that such applicant is the owner, whereupon the Department shall assign a special number for the motor vehicle preceded by a symbol indicating this State. A record of special numbers so assigned shall be maintained by the Department. The title inspector shall stamp the number upon the vehicle as directed by the Department and, upon receipt by the Department of a certificate that the title inspector has inspected and stamped the number upon the motor vehicle as directed, in a workmanlike manner, together with application for a certificate of title, such special number shall be regarded as the serial number of the motor vehicle.

(36 Del. Laws, c. 10 § 44; Code 1935 § 5582; 21 Del. C. 1953 § 2310; 62 Del. Laws, c. 190 § 12; 67 Del. Laws, c. 187 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2311 [Reserved]

(Repealed by 62 Del. Laws, c. 190 § 13, eff Feb 8, 1980.)

## § 2312 Refusal or revocation of certificate of title — Grounds.

If the Department determines that an applicant for a certificate of title to a motor vehicle is not entitled thereto, it may refuse to issue such certificate and, in that event, unless the Department reverses its decision or its decision is reversed by a court of competent jurisdiction, the applicant shall have no further right to apply for a certificate of title on the statements in said application. The Department may, for a like reason, revoke any outstanding certificate of title.

(36 Del. Laws, c. 10 § 39; Code 1935 § 5577; 21 Del. C. 1953 § 2312.)

## § 2313 Refusal or revocation of certificate of title — Hearing; notice.

No outstanding certificate of title shall be revoked by the Department without notice to the owner of the vehicle and a hearing. The notice shall be served in person or by registered mail.

(36 Del. Laws, c. 10 § 39; Code 1935 § 5577; 21 Del. C. 1953 § 2313.)

## § 2314 Refusal or revocation of certificate of title — Appeal.

An appeal from any decision of the Department refusing or revoking a certificate of title may be taken to the Superior Court.

(36 Del. Laws, c. 10 § 39; Code 1935 § 5577; 21 Del. C. 1953 § 2314.)

## § 2315 False statements; penalty.

Whoever knowingly makes any false statement in any application or other document required by the terms of this chapter shall be guilty of an unclassified misdemeanor, and shall be fined not less than $100 nor more than $1,000, or imprisoned not less than 60 days nor more than 1 year, or both.

(36 Del. Laws, c. 10 §§ 41, 48; 37 Del. Laws, c. 10 § 13; Code 1935 §§ 5579, 5586; 21 Del. C. 1953 § 2315; 77 Del. Laws, c. 60 § 7.)

## § 2316 Altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate.

Whoever:

(1) Alters with fraudulent intent any certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate issued by the Division; or

(2) Forges or counterfeits any certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate issued by the Division; or

(3) Alters or falsifies with fraudulent intent or forges any assignment of a certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plates; or

(4) Holds or uses any certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate or an assignment thereof, knowing the same to have been altered, forged or falsified;

is guilty of a class E felony as the same is defined in Chapter 42 of Title 11 and shall be sentenced in accordance therewith.

(36 Del. Laws, c. 10 §§ 42, 49; Code 1935 §§ 5580, 5588; 21 Del. C. 1953 § 2316; 59 Del. Laws, c. 531 § 1.)

## Subchapter II

## Liens

### § 2331 Evidence of liens on application for a certificate of title.

Every application for a certificate of title shall contain a section where the applicant must disclose any and all liens on the vehicle to be titled.

(Code 1915 § 254K; 32 Del. Laws, c. 8; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 36 Del. Laws, c. 10 § 35; 38 Del. Laws, c. 28 § 1; 40 Del. Laws, c. 32; Code 1935 § 5573; 21 Del. C. 1953 § 2331; 67 Del. Laws, c. 87 § 1; 71 Del. Laws, c. 376 § 1.)

### § 2332 Notation of liens and encumbrances on certificate of title.

Each certificate of title shall contain a statement of the owner's title and of the liens and encumbrances upon the vehicle therein described as noted in the application and whether possession is held by the owner under a lease, contract of conditional sale or other like agreement.

(36 Del. Laws, c. 10 § 10; Code 1935 § 5548; 43 Del. Laws, c. 244 § 5; 21 Del. C. 1953 § 2332.)

### § 2333 Uniform Commercial Code — Filing requirements not applicable when there is compliance with this title.

In accordance with § 9-311(a)(2) of Title 6 (Uniform Commercial Code), where a lien is required to be filed and noted on a certificate of title pursuant to this title, no additional filing shall be required under Article 9 of Subtitle I of Title 6 (Uniform Commercial Code).

(21 Del. C. 1953 § 2332A; 56 Del. Laws, c. 15 § 1.)

### § 2334 Uniform Commercial Code — Requirements applicable to security interest in inventory of motor vehicles.

This title does not apply to the creation or perfection of a security interest in a motor vehicle held by the debtor as inventory held for sale. The validity and effect of such security interest shall be governed by Article 9 of Subtitle I of Title 6 (Uniform Commercial Code).

(21 Del. C. 1953 § 2332B; 56 Del. Laws, c. 15 § 2.)

### § 2335 Application for recording lien upon motor vehicle where certificate is outstanding [For applicability of this section, see 80 Del. Laws, c. 77, § 23]

(a) In the event that any claim of any kind is sought to be secured upon any motor vehicle for which a certificate of title has been previously issued by the Department, and the certificate remains outstanding and valid and no assignment of the certificate has been made or sought to be made and no transfer of title or ownership or possession of the motor vehicle is made or sought to be made, the certificate of title shall be returned to the Department together with the application for placing and recording of such claim as a lien or encumbrance upon the motor vehicle. The application shall be made upon the appropriate form furnished and approved by the Department. Every application shall be accompanied by a fee of $20, which shall be in addition to any other fees required by this title. Upon the filing of the application and the entering of the claim, the certificate of title shall be returned to the person entitled to receive it.

(b) No claim of any kind shall be entered upon the certificate of title for any motor vehicle until the applicant has fully complied with all the provisions of this subchapter, insofar as such provisions may be applicable thereto.

(Code 1915 § 254K; 32 Del. Laws, c. 8; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 36 Del. Laws, c. 10 § 36; 38 Del. Laws, c. 28 §§ 1, 2; 40 Del. Laws, c. 32; Code 1935 §§ 5573, 5574; 21 Del. C. 1953 § 2333; 53 Del. Laws, c. 221 § 13; 68 Del. Laws, c. 156 § 60(c); 71 Del. Laws, c. 376 § 2; 80 Del. Laws, c. 77 § 19.)

### § 2336 Recording liens; fee.

The Director shall keep a record of liens or encumbrances upon motor vehicles for a period of 8 years from the date of entering such lien or encumbrance on any certificate of title. For making entry on liens or encumbrances in the aforementioned record, the Director shall charge a fee of $10 which shall be paid by the applicant at the time of entering such lien or encumbrance on the certificate of title.

(Code 1915 § 254K; 32 Del. Laws, c. 8; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 37 Del. Laws, c. 11 § 3; 38 Del. Laws, c. 28 § 1; 40 Del. Laws, c. 32; Code 1935 § 5573; 21 Del. C. 1953 § 2334; 50 Del. Laws, c. 210 § 1; 53 Del. Laws, c. 221 § 14; 57 Del. Laws, c. 670 § 9A; 58 Del. Laws, c. 174; 61 Del. Laws, c. 110 § 1; 67 Del. Laws, c. 260 § 1; 68 Del. Laws, c. 156 § 60(d).)

### § 2337 Priority of liens.

Liens or encumbrances on a motor vehicle properly set out in the application for a certificate of title, whereby any such liens or encumbrances are sought to be secured on a motor vehicle, shall for all purposes be valid from the date of the issuance of the certificate of title. If there is more than one such lien on any one motor vehicle, then such liens shall have priority according to the dates of the application as evidence of such claims. Such liens and encumbrances entered upon the certificate of title and recorded in the lien register shall be notice to all creditors of whatever description that such liens or encumbrances exist against the motor vehicle.

(36 Del. Laws, c. 10 § 36; 38 Del. Laws, c. 28 § 2; Code 1935 § 5574; 47 Del. Laws, c. 391; 21 Del. C. 1953 § 2335; 71 Del. Laws, c. 376 § 3.)

### § 2338 Duration of liens in favor of firms which cease to do business.

Any lien recorded in favor of a firm or corporation which, since the recording of such lien, has dissolved, ceased to do business or gone out of business for any reason, and which remains of record as a lien of such firm or corporation for a period of more than 3 years from the date of the recording thereof shall become null and void and of no further force and effect.

(Code 1915 § 254K; 32 Del. Laws, c. 8; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9 § 1; 40 Del. Laws, c. 32; Code 1935 § 5573; 21 Del. C. 1953 § 2336.)

### § 2339 Satisfaction of liens.

Within 30 days from the date of final payment being made on any lien or encumbrance recorded under this subchapter, the certificate of title shall be signed accordingly in the manner prescribed by the Department. Upon the certificate of title being presented to the Department, the lien register shall be amended to reflect that the lien or encumbrance has been satisfied and the certificate of title shall be marked or stamped satisfied.

(Code 1915 § 254K; 32 Del. Laws, c. 8; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 37 Del. Laws, c. 11 § 3; 38 Del. Laws, c. 28 § 1; 40 Del. Laws, c. 32; Code 1935 § 5573; 21 Del. C. 1953 § 2337; 53 Del. Laws, c. 221 § 15; 57 Del. Laws, c. 670 § 9A; 61 Del. Laws, c. 110 § 2; 65 Del. Laws, c. 327 § 1.)

### § 2340 Failure to satisfy lien after payment; satisfaction by Secretary; penalty.

For failure to satisfy any lien or encumbrance within 30 days after final payment has been made, the lien holder shall be fined not less than $25 nor more than $100. Proceedings for enforcement of these provisions shall be made by the Secretary of Transportation in the office of any justice of the peace in the State. Should any lien holder fail, refuse or neglect to satisfy any lien or encumbrance within 60 days after final payment thereon has been made, the Secretary, after due and timely notice given to the lien holder, may, upon the presentation of convincing evidence which the Secretary shall retain in the Secretary's office and file with the lien registrar, satisfy such lien or encumbrance recorded in the lien register.

(Code 1915 § 254K; 32 Del. Laws, c. 8; 34 Del. Laws, c. 17; 35 Del. Laws, c. 9; 38 Del. Laws, c. 28 § 1; 40 Del. Laws, c. 32; Code 1935 § 5573; 41 Del. Laws, c. 220; 21 Del. C. 1953 § 2338; 57 Del. Laws, c. 670 §§ 9A, 9B; 65 Del. Laws, c. 503 § 10; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 47.)

### § 2341 Transfer of title without disclosure of liens.

Any person, association of persons, firm or corporation and every agent or officer thereof participating in the transaction, who shall assign, transfer or set over, or cause to be assigned, transferred or set over, to any person, association of persons, firm or corporation the title to any motor vehicle for which a certificate of title is required by this title or who shall sell to any such person, association of persons, firm or corporation a motor vehicle for which a certificate of title is required by this title, shall disclose to such assignee, transferee or purchaser the existence of all existing liens and encumbrances in any form upon such motor vehicle, the holder or holders of such liens or encumbrances and the true amount thereof with all charges and interest due in respect thereof at the time of such assignment, transfer or sale.

(Code 1935 § 5575A; 43 Del. Laws, c. 244 § 18; 21 Del. C. 1953 § 2339.)

### § 2342 Terminal rental adjustment clauses.

In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

(70 Del. Laws, c. 433 § 1.)

## Subchapter III

## Penalties

### § 2351 Violations of chapter.

(a) Whoever violates this chapter shall be fined not less than $25 nor more than $500, or imprisoned not less than 30 days nor more than 1 year or both.

(b) This section shall not apply to violations for which a specific punishment is set forth in this chapter.

(36 Del. Laws, c. 10 § 49; Code 1935 § 5587; 21 Del. C. 1953 § 2351.)

# Part II
# Registration, Title and Licenses
# Chapter 25
# TRANSFER OF TITLE, REGISTRATION AND LIENS

## § 2501 Expiration of registration upon transfer of title.

Whenever the owner of a vehicle registered under this title transfers or assigns the title or interest thereto, the registration of such vehicle shall expire.

(36 Del. Laws, c. 10 § 15; Code 1935 § 5553; 43 Del. Laws, c. 244 § 9; 21 Del. C. 1953 § 2501; 70 Del. Laws, c. 186 § 1.)

## § 2502 Endorsement and delivery of registration card upon transfer.

An owner, upon transferring a registered vehicle, shall endorse the name and address of the transferee and the date of transfer upon the registration card issued for such vehicle and shall immediately give or send such card to the Department or an authorized representative thereof, except as otherwise provided by law in the case of transfers to dealers.

(36 Del. Laws, c. 10 § 15; Code 1935 § 5553; 43 Del. Laws, c. 244 § 9; 21 Del. C. 1953 § 2502.)

## § 2503 New certificate of title, registration and inspection; exceptions [For applicability of this section, see 80 Del. Laws, c. 77, § 23]

(a) The transferee of a Delaware registered vehicle shall make application for a new certificate of title immediately following purchase, but in no case more than 30 days after purchase of said vehicle. If due to extraordinary circumstances the purchaser is unable to apply for a certificate of title within 30 days of the purchase date, the Director, in the Director's discretion and for good cause shown, may grant an extension of time within which the purchaser must do so. The transferee, before operating or permitting the operation of a motor vehicle which has been transferred to such transferee upon a highway, shall apply for a transfer of title, obtain the registration of the vehicle as upon original registration, submit the vehicle to inspection and obtain new registration plates and new number plates as provided in this title. If the transferor has not had the registration plates and number plates transferred and assigned to another vehicle, then the transferee may, before operating or permitting the operation of such vehicle upon a highway, apply for and obtain, upon the payment of a fee of $35, a transfer of title and registration. Upon any such application the Department shall issue to the transferee without additional fee or inspection a new certificate of title and a new registration card, which card shall show the same period for which such vehicle was originally registered by the owner.

(b) Subsection (a) of this section shall not apply to the operation of vehicles by dealers or under temporary or limited permits or certificates as otherwise provided by this title.

(c) The Department shall transfer a certificate of title or registration certificate to any person 18 years of age or older if such person is otherwise qualified to obtain such certificate of title or registration certificate. The Department may transfer a certificate of title or registration certificate to a person under 18 years of age if at least 1 parent or guardian of said person signs the certificate of title or registration certificate stating consent to the transfer of same.

(36 Del. Laws, c. 10 § 15; Code 1935 § 5553; 43 Del. Laws, c. 244 § 9; 48 Del. Laws, c. 115 § 2; 21 Del. C. 1953 § 2503; 53 Del. Laws, c. 221 § 16; 54 Del. Laws, c. 365 § 3; 57 Del. Laws, c. 75; 58 Del. Laws, c. 551 § 42; 59 Del. Laws, c. 48 § 4; 65 Del. Laws, c. 178 § 5; 68 Del. Laws, c. 156 § 60(e); 69 Del. Laws, c. 74 § 1; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 76 § 15; 80 Del. Laws, c. 77 § 20.)

## § 2504 Transfer to a dealer; transfer by a dealer.

(a) If the transferee is a dealer, the owner upon transferring a registered vehicle shall properly endorse the registration card and deliver it together with the certificate of title properly assigned to the dealer who shall immediately report such transfer to the Department. After reporting the transfer, the dealer may operate such vehicle upon the highways during the period for which it is currently registered without dealer's plates solely for the purposes of testing, demonstrating or selling the vehicle but upon the sale of such vehicle the dealer shall endorse the name and address of the purchaser and the date of transfer upon the registration card and shall immediately give or send the card to the Department or an authorized representative thereof. The purchaser or transferee of the dealer shall, before operating or permitting the operation of the vehicle upon a highway, comply with this chapter.

(b) If ownership of a vehicle held by a registered dealer for sale is transferred, the transferring dealer, without applying for a new certificate of title, may execute an assignment of title to the transferee on a dealer's reassignment form, prescribed by the Department. Such assignment shall include a statement certifying all liens and encumbrances on the vehicle.

Every dealer, upon transferring a vehicle, shall immediately give a written notice of such transfer to the Department upon the official form provided by the Department.

(c) Dealer reassignment forms may be issued to a qualified dealer upon application for not less than 5 such forms and payment of a fee of $10 for each form.

(36 Del. Laws, c. 10 § 15; Code 1935 § 5553; 43 Del. Laws, c. 244 § 9; 21 Del. C. 1953 § 2504; 60 Del. Laws, c. 336 § 1; 65 Del. Laws, c. 178 § 6; 68 Del. Laws, c. 156 § 60(f); 79 Del. Laws, c. 46 § 1.)

## § 2505 Transfer to automotive recycler.

(a) Whenever an automotive recycler purchases or otherwise acquires any vehicle, whether registered or unregistered, for the purpose of wrecking or dismantling it in order to resell the parts thereof, such automotive recycler shall obtain the certificate of title issued by this State or any other state, a salvage certificate or other acceptable evidence of ownership from the seller or transferee which shall be deemed to meet all State proof of ownership, and shall be kept by the automotive recycler at the place of business where the vehicle was originally acquired by the automotive recycler. The automotive recycler shall report the acquisition of all vehicles to the Department on a monthly basis on a form devised by the Department. If the vehicle is transferred by the automotive recycler or the recycler's agent to another person or location, it shall be noted by the automotive recycler in the record, and the proof of ownership shall be transferred and kept at the same location as the vehicle, unless the vehicle is transferred to a scrap processor for recycling the vehicle scrap in which case the automotive recycler shall immediately send or deliver the proof of ownership of the vehicle to the Department. In this case the automotive recycler shall complete a 3-part form provided by the Department and shall:

(1) Retain 1 copy in the recycler's records;

(2) Forward 1 copy to the Department together with the proof of ownership;

(3) Forward the remaining copy to the scrap processor; and

(4) The scrap processor shall, upon destruction of the vehicle, retain a copy in such processor's records. The copy retained by the scrap processor shall be kept for a period of 3 years and the scrap processor shall make the same available for inspection by any police officer during the regular working hours of such business.

(b) The records and information required by this section shall be maintained by the automotive recycler for as long as said vehicle remains in the recycler's possession or control; provided, however, that if the automotive recycler transfers such vehicle to another person the recycler shall nevertheless keep such records and information for a period of 3 years from the date of such transfer. All records shall be maintained at the approved business location.

(c) If the ownership of the vehicle held for resale is transferred for titling and registration purposes, the transferring licensed automotive recycler without applying for a new certificate of title may execute an assignment of the certificate of title or salvage certificate to the transferee on the reassignment form prescribed by the Department.

(d) Any person who fails, neglects or refuses to maintain the records and information required by this section, or who shall refuse to permit the examination of the records or information by persons permitted to do so by this section or Chapter 75 of this title, shall be guilty of a class B misdemeanor as the same is defined in Chapter 42 of Title 11, and shall be subject to the penalties prescribed therein.

(36 Del. Laws, c. 10 §§ 15, 26; Code 1935 §§ 5553, 5564; 43 Del. Laws, c. 244 §§ 9, 15; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2505; 51 Del. Laws, c. 223 § 2; 59 Del. Laws, c. 541 § 3; 63 Del. Laws, c. 53 § 1; 65 Del. Laws, c. 318 § 4; 70 Del. Laws, c. 186 § 1.)

## § 2506 Transfer by operation of law; duty of transferee.

In the event of the transfer by operation of law of the title or interest of an owner in and to a vehicle as upon transfer-on-death, inheritance, devise or bequest, order in bankruptcy or insolvency or execution sale, the registration thereof shall expire and the vehicle shall not be operated upon the highways until and unless the person entitled thereto applies for and obtains the registration and inspection thereof and a transfer of title therefor. The surviving spouse, the child or children of any deceased person and the immediate members of the deceased's family residing in the household, after giving due and proper notice to the Department in such manner and on such form as may be provided therefor by the Department, may operate such vehicle and the current registration thereof shall continue in full force and effect until normal expiration thereof at which time the registration of such vehicle shall expire. An administrator, executor, trustee or other representative of the owner, or a sheriff or other officer or the assignee or legal representative of any such person may operate or cause to be operated any vehicle upon the highways for a distance not exceeding 125 miles from the place where formerly kept by the owner, to a garage, warehouse or other place of keeping or storage, upon displaying upon such vehicle the number plates issued for it and obtaining a temporary or limited permit for such operation as provided by this title.

(36 Del. Laws, c. 10 § 15; Code 1935 § 5553; 42 Del. Laws, c. 169; 43 Del. Laws, c. 244 § 9; 21 Del. C. 1953 § 2506; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 274 § 4.)

## § 2507 Retitling vehicle in another state.

Whenever any motor vehicle for which a title has been issued by the Department, whether such vehicle is registered or unregistered, is removed from this State, through transfer or otherwise, for the purpose of retitling the vehicle in another state, the owner thereof, upon transferring and/or removing such vehicle, shall, in addition to complying with all the other provisions of this chapter, remove the number plates and, if the vehicle is registered, the registration plates therefrom and shall immediately give or send such plates to the Department or an authorized representative thereof, together with a report that such vehicle is to be retitled in another state. If the Department is satisfied that the vehicle is to be removed from this State for the purpose aforesaid, the title to such vehicle shall be canceled.

(36 Del. Laws, c. 10 § 15; Code 1935 § 5553; 44 Del. Laws, c. 188 § 1; 45 Del. Laws, c. 287 § 3; 21 Del. C. 1953 § 2507; 51 Del. Laws, c. 223 § 3.)

## § 2508 Fee to transfer title [For applicability of this section, see 80 Del. Laws, c. 77, § 23]

The fee for transferring title to a vehicle shall be $35. A $35 penalty fee shall be charged for the issuance of a new certificate of title on a

Delaware titled vehicle when the application is received more than 30 days after the transfer date of said vehicle. The penalty fee shall be waived if the Director has granted an extension of time within which to apply for a certificate of title in accordance with § 2503(a) of this title.

(36 Del. Laws, c. 10 § 26; Code 1935 § 5564; 43 Del. Laws, c. 244 § 15; 45 Del. Laws, c. 287 § 2; 21 Del. C. 1953 § 2508; 53 Del. Laws, c. 221 § 17; 65 Del. Laws, c. 178 § 4; 68 Del. Laws, c. 156 § 60(g); 69 Del. Laws, c. 74 § 2; 76 Del. Laws, c. 76 § 16; 80 Del. Laws, c. 77 § 21.)

## § 2509 Delivery of title application to Department.

If a licensed dealer holds for sale a motor vehicle, truck tractor, trailer or any other vehicle required by this title to be registered or titled by the Department and transfers the motor vehicle, truck tractor, trailer or other vehicle to someone other than another licensed dealer who holds such vehicle for sale, the dealer shall:

(1) Comply with this chapter; and

(2) Within 30 days of the date of delivery of the vehicle to the purchaser or transferee, transmit to the Department the application for certificate of title and such other accompanying documents and fees as are required by the Department; or

(3) Within 10 days of the date of delivery of the vehicle, transmit to the purchaser or transferee of such vehicle the application for certificate of title and such other accompanying documents as are required by the Department, in which case the transferee or purchaser shall submit the application and other documents to the Department within 30 days of the date of delivery of the vehicle.

(4) If, due to extenuating circumstances, the dealer or purchaser or transferee is unable to transmit the application to the Department within 30 days of the date of delivery of the vehicle, the Director, in the Director's discretion may grant an extension of time within which the dealer, purchaser or transferee must do so.

(36 Del. Laws, c. 10 § 17; Code 1935 § 5555; 21 Del. C. 1953 § 2509; 64 Del. Laws, c. 466 § 12; 70 Del. Laws, c. 186 § 1.)

## § 2510 Endorsement and delivery of certificate of title upon transfer; penalty [For applicability of this section, see 80 Del. Laws, c. 77, § 23]

(a) The owner of a motor vehicle for which a certificate of title is required shall not sell or transfer that title or interest in or to such vehicle unless the owner has obtained a certificate of title thereto or, unless having procured a certificate of title, the owner shall in every respect comply with the requirements of this section. Whoever violates this section shall be fined not less than $25 nor more than $500, or imprisoned not less than 30 days nor more than 1 year or both.

(b) The owner of a motor vehicle who transfers or sells that title or interest in or to such motor vehicle shall endorse an assignment and warranty of title upon the certificate of title for such vehicle with a statement, as certified by the owner under penalty of perjury, of all liens or encumbrances thereon and the owner shall deliver the certificate of title to the purchaser or transferee at the time of delivering the vehicle.

(c) The transferee, except as provided in subsection (d) of this section, shall thereupon present such certificate endorsed and assigned to the Department, accompanied by a transfer fee of $35 and make application for and obtain a new certificate of title for such vehicle.

(d) When the transferee of a vehicle is a dealer who holds the vehicle for resale and operates it only for purposes of demonstration under dealer's number plates or when the transferee does not drive such vehicle or permit such vehicle to be driven upon the highways, such transferee shall not be required to forward the certificate of title to the Department, as provided in subsection (c) of this section, but such transferee upon transferring that title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same to the person to whom such transfer is made. No dealer or other transferee shall hold the certificate of title to a motor vehicle for resale and/or transfer that title or interest to another person by executing an assignment and warranty of title upon the certificate of title without first having satisfied or caused to be satisfied all liens or encumbrances against the motor vehicle recorded in the office of the Secretary.

(e) Whenever the ownership of any motor vehicle passes otherwise than by voluntary transfer, the new owner may obtain a certificate of title therefore from the Department upon application therefore and payment of a fee of $35, accompanied with such instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title or interest in or to chattels in such case. The Department, when satisfied of the genuineness and regularity of such transfer, shall issue a new certificate of title to the person entitled thereto.

(f) Whenever a dealer purchases or otherwise acquires a previously registered vehicle, the dealer shall immediately notify the Department, giving the name of the former owner and a sufficient description of the vehicle to identify it.

(36 Del. Laws, c. 10 §§ 37, 49; 37 Del. Laws, c. 10 § 12; 40 Del. Laws, c. 33 § 1; Code 1935 §§ 5575, 5587; 43 Del. Laws, c. 244 § 17; 21 Del. C. 1953 § 2510; 53 Del. Laws, c. 221 §§ 18, 19; 57 Del. Laws, c. 670 § 10; 64 Del. Laws, c. 466 § 10; 65 Del. Laws, c. 178 §§ 7, 8; 68 Del. Laws, c. 156 § 60(h); 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 76 § 17; 80 Del. Laws, c. 77 § 22.)

## § 2511 Penalties.

(a) Whoever violates this chapter shall for the first offense be fined not less than $25 nor more than $100, or imprisoned not less than 30 days nor more than 90 days or both. For each subsequent like offense, the person shall be fined not less than $100 nor more than $200, or imprisoned not less than 90 days nor more than 6 months or both.

(b) This section shall not apply to violations for which a specific punishment is set forth elsewhere in this chapter.

(36 Del. Laws, c. 10 § 32; 37 Del. Laws, c. 10 §§ 10, 11; Code 1935 § 5570; 21 Del. C. 1953 § 2511; 70 Del. Laws, c. 186 § 1.)

## § 2512 Transfer for salvage.

(a) Whenever any registered or unregistered motor vehicle, for which a title has been issued by the Department, is transferred as salvage as a result of a total loss insurance settlement, the insurance company or its authorized agent shall send the certificate of title of the vehicle to the Department within 30 days from the date of settlement. Upon receipt of the certificate of title and appropriate fee, the Department shall issue a salvage certificate. Such salvage certificate shall be deemed to meet all State proof of ownership.

(b) If the owner of any registered or unregistered motor vehicle for which a title has been issued by the Department receives a total loss insurance settlement for the vehicle and chooses to retain ownership of the vehicle as owner retained salvage, the insurance company shall either comply with the requirements in paragraph (a) of this section or require the owner of the vehicle to procure a salvage certificate from the Department prior to paying the total loss insurance settlement.

(c) Every scrap processor which takes in a scrapped or dismantled vehicle without a title shall upload the vehicle identification number into the National Motor Vehicle Title Information System (NMVTIS) by the close of business the next business day and shall have the vehicle cleared by a Delaware State Police auto theft technician before the vehicle is scrapped, dismantled, or altered in any way.

(d) The Department shall issue to the seller a receipt in the name of the seller, agent or owner for the salvage certificate. The seller or vehicle owner or agent shall keep such records and receipt for a period of 3 years from the date of sale and shall make such records and receipts available for inspection and examination by any police officer during the regular working hours of such business, seller or agent.

(e) Any person who fails, neglects or refuses to maintain the records and information required by this section, or who shall refuse to permit the examination of the records or information by persons permitted by this section to do so, shall be guilty of a class B misdemeanor as the same is defined in Chapter 42 of Title 11, and shall be subject to the penalties proscribed therein.

(f) The record keeping requirements outlined in this section shall be applicable to scrap processors, salvage dealers, junk dealers and insurance companies or their authorized agents. The record keeping requirement and penalties for failure to maintain such records shall not apply to individual owners who choose to retain ownership of their total loss vehicle as owner retained salvage.

(59 Del. Laws, c. 541 § 1; 63 Del. Laws, c. 53 § 2; 71 Del. Laws, c. 57 §§ 1, 2; 80 Del. Laws, c. 328 § 1.)

## § 2513 Duty of owner or holder of certificate of title in reference to stolen vehicles.

Whenever any motor vehicle for which a title has been issued by the Department, whether such vehicle is registered or unregistered, is stolen, the owner or holder of the certificate of title shall, within 30 days of such theft, in addition to complying with all the other provisions of this chapter, send the certificate of title of the stolen vehicle to the Department or an authorized representative thereof. If the stolen vehicle is recovered after the title has been sent to the Department, the Department shall return the title at no cost to the owner or former holder of the certificate of title within 10 days after receiving a request therefor from such owner or former holder.

(59 Del. Laws, c. 541 § 2.)

## § 2514 Sale of used taxicabs; notice; inspection; penalty.

(a) No person shall knowingly offer for sale or exchange in this State any motor vehicle which was previously licensed and used as a taxicab or for public transportation until the certificate of title for such motor vehicle has been surrendered to the Secretary of Transportation and until the Secretary has stamped in a conspicuous place on such certificate of title the designation "PREV TAXI."

(b) No taxicab or other vehicle which was previously used for public transportation shall be sold to any person until such vehicle has been examined and determined safe and fit for operation and found equipped according to law by the agents of the Secretary of Transportation of this State. In the event such vehicle is found to be in an unsafe condition or the required equipment is not present or is not in proper repair and adjustment, the Secretary or the Secretary's agent shall give a written notice of the unsafe condition to the owner of the motor vehicle. In event the taxicab or motor vehicle is not placed in a safe condition and equipped according to law, the Department shall rescind, cancel or suspend the registration of such vehicle.

(c) Any person who sells a motor vehicle contrary to this section and every officer, agent or employee of any person, firm or corporation and every person who shall sell or who shall authorize, direct, aid in or consent to the sale of a motor vehicle contrary to the provisions of this section shall be fined not more than $1,000 or be imprisoned not more than 1 year, or both.

(64 Del. Laws, c. 466 § 13; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 48, 49.)

## § 2515 Sale of motor vehicles lacking catalytic converters.

(a) No person shall sell a motor vehicle from which the catalytic converter has been removed without first advising the purchaser in writing and obtaining the purchaser's signature upon said notification that the catalytic converter is missing and that the vehicle may not pass inspection. It shall be a defense to any cause of action brought pursuant to this section if the motor vehicle was not required by federal laws or regulations to have a catalytic converter as part of its equipment.

(b) Any person who sells a motor vehicle in violation of this section shall make restitution to the purchaser in an amount reasonably necessary to pay for:

(1) Parts and labor to replace the catalytic converter; and

(2) All reasonable costs and attorneys' fees for bringing an action pursuant to this section.

(70 Del. Laws, c. 429 § 1.)

# Part II
# Registration, Title and Licenses
# Chapter 26
# UNIFORM COMMERCIAL DRIVER LICENSE ACT

## § 2601 Short title.

This chapter may be cited as the "Uniform Commercial Driver License Act."

(67 Del. Laws, c. 157 § 1.)

## § 2602 Statement of intent and purpose.

(a) The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Title XII of Pub. Law 99-570) [49 U.S.C. § 521, Appendix §§ 2304, 2701-2716; repealed] and reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

(1) Permitting commercial drivers to hold only 1 license;

(2) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;

(3) Strengthening commercial driver licensing and testing standards.

(b) This chapter is a remedial law and shall be liberally construed to promote the public health, safety and welfare. To the extent that this chapter conflicts with general driver licensing provisions, this chapter prevails. Where this chapter is silent, the general driver licensing provisions apply.

(67 Del. Laws, c. 157 § 1.)

## § 2603 Definitions.

Notwithstanding any other provision of this title, the following definitions apply to this chapter:

(1) "Alcohol" means any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol.

(2) "Alcohol concentration" means:

a. The number of grams of alcohol per 100 milliliters of blood; or

b. The number of grams of alcohol per 210 liters of breath.

(3) "Alien" means any person not a citizen or national of the United States."

(4) "CDL downgrade" means either:

a. Except where otherwise provided in this title, the Division allows the driver to change his or her self-certification to interstate but operating exclusively in transportation or operation excepted from 49 C.F.R. Part 391, as provided in § 390.3(f), § 391.2, § 391.68, or § 398.3;

b. The Division allows the driver to change his or her self-certification to intrastate only if the driver is physically qualified for intrastate-only driving under § 4704(b) of this title;

c. The Division allows the driver to change his or her certification to intrastate but operating exclusively in transportation or operations excepted under § 4704(c)(1) [or] (2) of this title driver physical qualification requirements; or

d. The Division removes the CDL privilege from the driver license.

(5) "CDLIS driver record" means the electronic record of the individual CDL driver's status and history stored by the state of record as part of the Commercial Driver's License Information System (CDLIS) established under 49 U.S.C. § 31309.

(6) "CDLIS motor vehicle record" means a report generated from the CDLIS driver record meeting the requirements for access to CDLIS information and provided by states to users authorized in 49 C.F.R. § 384.225(e)(3) and (4), subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. §§ 2721-2725, and § 305 of this title.

(7) "Commercial learner permit" (CLP) means a permit issued pursuant to § 2608(d) of this title.

(8) "Commercial driver license" (CDL) means a license issued in accordance with the requirements of this chapter to an individual which authorizes the individual to drive a certain class of commercial motor vehicle.

(9) "Commercial driver license information system" (CDLIS) means the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(10) "Commercial motor vehicle (CMV)" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle

a. Has a gross combination weight rating (GCWR) of 26,001 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; or

b. Has a gross vehicle weight rating (GVWR) of 26,001 pounds or more; or

c. Is designed to transport 16 or more passengers, including the driver; or

d. Is of any size and is used in the transportation of hazardous materials.

(11) "Controlled substance" means any substance so classified under § 102(6) of the Controlled Substances Act (21 U.S.C. § 802(6)), and includes all substances listed on Schedules I through V, of 21 C.F.R. part 1308, as they may be revised from time to time.

(12) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(13) "Disqualification" means any of the following actions:

a. The suspension, revocation, or cancellation of a CDL or CLP by the state or jurisdiction of issuance.

b. Any withdrawal of a person's privileges to drive a Commercial Motor Vehicle (CMV) by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

c. A determination by the FMCSA that a person is not qualified to operate a commercial motor vehicle under Part 391 of 49 C.F.R.

(14) "Drive" means to drive, operate or be in physical control of a motor vehicle.

(15) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver license.

(16) "Driver license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.

(17) "Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV:

a. Driving a CMV while the person's alcohol concentration is 0.04 or more;

b. Driving under the influence of alcohol as prescribed by state law; or

c. Refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of § 383.51(b) or § 392.5(a)(2) of 49 C.F.R.

(18) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(19) "Excepted interstate commerce" means a CDL/CLP applicant must certify that he or she operates or expects to operate in interstate commerce but engages exclusively in transportation or operations excepted under 49 C.F.R. § 390.3(f), § 391.2, § 391.68, or § 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391 and is, therefore, not required to obtain a federal medical examiner's certification by 49 C.F.R. § 391.45.

(20) "Excepted intrastate commerce" means a CDL/CLP applicant must certify that he or she operates in intrastate commerce but engages exclusively in transportation or operations excepted from all or parts of the Delaware's driver medical qualification requirements in §§ 2621 and 4704(c)(2) of this title.

(21) "Fatality" means the death of a person as a result of a motor vehicle accident.

(22) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding 1 year.

(23) "FMCSA" means Federal Motor Carrier Safety Administration.

(24) "Foreign jurisdiction" means any jurisdiction other than a state of the United States or District of Columbia.

(25) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. The GVWR of a combination (articulated) vehicle (commonly referred to as the "Gross Combination Weight Rating" or "GCWR") is the GVWR of the power unit plus the GVWR of the towed unit or units.

(26) "Hazardous material" means any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.

(27) "Imminent hazard" means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment.

(28) "Issue and issuance" means initial licensure, license transfers, license renewals, license upgrades, and nonresident commercial driver's licenses.

(29) "Major traffic violation" means any conviction defined as "major" as specified by 49 C.F.R. § 383.51(b) Table 1.

(30) "Manual transmission" means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gearshift mechanism either operated by hand or foot.

(31) "Measurable amount of alcohol" means the alcohol concentration of the person's blood or breath is equal to or greater than 0.02 but less than 0.04.

(32) "Medical examiner" for purposes of conducting U.S. Department of Transportation physical examination for CMV certification means a person who is licensed, certified, and/or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic. For medical examinations conducted on and after May 21, 2014, a medical examiner must be certified by FMCSA and listed on the National Registry of Certified Medical Examiners as defined in this section.

(33) "Medical variance" means a driver has received 1 of the following from FMCSA that allows the driver to be issued a medical certificate:

a. An exemption letter permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. Part 381, Subpart C, or § 391.64;

b. A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. § 391.49.

(34) "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power, motorized wheel chairs, farm implements of husbandry, mopeds, tripeds and OHVs.

(35) "Motor vehicle record" means the report of the driving status and history of a driver generated from the driver record, provided to users, such as drivers or employers, and subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. §§ 2721-2725 and § 305 of this title.

(36) "National Registry of Certified Medical Examiners" means a program administered by the Federal Motor Carrier Safety Administration (FMCSA) that establishes requirements for healthcare professionals who perform physical qualification examinations for commercial motor vehicle (CMV) drivers. All healthcare professionals whose scope of practice authorizes them to perform physical examinations and who intend to perform physical examinations and issue medical certificates for CMV drivers to meet the requirements of § 391.41 of the Federal Motor Carrier Safety Regulations (FMCSRs) [49 C.F.R. § 391.41] must be certified and listed on FMCSA's National Registry no later than May 21, 2014.

(37) "Non-CMV" means a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle (CMV)" in this section.

(38) "Non-domiciled CDL" means a CDL or CLP issued by a state under either of the following 2 conditions:

a. To an individual domiciled in a foreign country meeting the requirements of § 383.23(b)(1) of 49 C.F.R.

b. To an individual domiciled in another state meeting the requirements of § 383.23(b)(2) of 49 C.F.R.

(39) "Non-excepted interstate commerce" means a CDL/CLP applicant must certify that he or she operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391, and is required to obtain a federal medical examiner's certification by 49 C.F.R. § 391.45.

(40) "Non-excepted intrastate commerce" means a CDL/CLP applicant must certify that he or she operates only in intrastate commerce and, therefore, is subject to the Delaware driver medical qualification requirements in § 4704(a), (b), and (c)(1) of this title.

(41) "Out-of-service order" means a declaration by the Federal Highway Administration or an authorized enforcement officer of a federal, state, local or governmental agency from Puerto Rico, Canada or Mexico that a driver or a commercial motor vehicle or motor carrier operation (as defined in the Federal Motor Carrier Safety Regulations [49 C.F.R. Part 390]) is out-of-service pursuant to § 386.72 (imminent hazard), § 392.5 (intoxicating beverage), § 395.13 (drivers declared out-of-service) or § 396.9 (inspection of motor vehicles in operation) of the Federal Motor Carrier Safety Regulations or comparable laws of any governmental agency referred to above or the North American Uniform Out-of-Service Criteria.

(42) "Railroad-highway grade crossing violation" means any conviction defined as "railroad-highway grade crossing" as specified by 49 C.F.R. 383.51(d) Table 3.

(43) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events, or any vehicle which meets the regulatory requirements adopted by the Department of Education with the advice of the Division of Motor Vehicles as specified under § 2901 of Title 14. "School bus" does not include a bus used as a common carrier.

(44) "Serious traffic violation" means any conviction defined as "serious," specified by 49 C.F.R. § 383.51(c) Table 2.

(45) "State" for the purpose of this chapter means a state, territory or possession of the United States, the District of Columbia, the Republic of Mexico, the Commonwealth of Puerto Rico and any province of the Dominion of Canada.

(46) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks, having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or chassis.

(47) "United States" means the 50 states and the District of Columbia.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 87 §§ 1, 2; 73 Del. Laws, c. 345 § 1; 74 Del. Laws, c. 216 §§ 1-3; 74 Del. Laws, c. 217 §§ 1-8; 75 Del. Laws, c. 391 §§ 1, 2; 77 Del. Laws, c. 311 § 1; 77 Del. Laws, c. 312 § 9; 78 Del. Laws, c. 87 § 1; 79 Del. Laws, c. 214 § 1; 79 Del. Laws, c. 279 § 7.)

## § 2604 Limitation on number of driver licenses.

No person who drives a commercial motor vehicle may have more than 1 driver license.

(67 Del. Laws, c. 157 § 1.)

## § 2605 Notification required by driver.

(a) Notification of convictions. —

(1) To State. — Any driver holding a commercial driver license issued by this State, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control, in this or any other state, other than parking violations, shall notify the Division

of Motor Vehicles in the manner specified by the Division of Motor Vehicles within 30 days of the date of conviction.

(2) To Employers. — Any driver holding a commercial driver license issued by this State, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, must notify the person's employer in writing of the conviction within 30 days of the date of conviction.

(b) Notification of suspensions, revocations and cancellations. — Each driver whose driver license is suspended, revoked, or canceled by any state, or who loses the privilege to drive a commercial motor vehicle in any state, for any period, including being disqualified from driving a commercial motor vehicle, or who has been issued an out of service order, must notify the person's employer of that fact before the end of the business day following the day the driver received notice of that fact.

(c) Notification of previous employment. —

(1) Each person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:

a. A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

b. The dates between which the applicant drove for each employer; and

c. The reason for leaving that employer.

(2) The applicant must certify that all information furnished is true and complete.

(3) An employer may require an applicant to provide additional information to substantiate the statements made in conjunction with this section.

(4) Before an application is submitted, the employer should inform the applicant that the information the applicant provides in accordance with this section may be used, and the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2606 Employer responsibilities.

(a) Each employer must require the applicant to provide the information specified in § 2605(c) of this title.

(b) No employer may allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) In which the driver has had a CDL/CLP suspended, revoked, or cancelled by any state, is currently disqualified from driving a commercial vehicle, or has been issued an out of service order in any state; or

(2) In which the driver has more than 1 driver license.

(3) In which the driver does not have a CDL/CLP for the type vehicle the employer requires the driver to drive.

(c) No employer may knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to railroad-highway grade crossing violations.

(d) No employer may knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle in violation of an out-of-service order.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 134 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 345 § 3; 77 Del. Laws, c. 311 § 2; 79 Del. Laws, c. 214 § 2; 79 Del. Laws, c. 279 § 7.)

## § 2607 Commercial driver license required.

(a) Except when driving under a CLP and accompanied by the holder of a commercial driver license valid for the vehicle being driven or while being tested by the Department for a commercial driver's license, no person may drive a commercial motor vehicle unless the person holds a commercial driver license and applicable endorsements valid for the vehicle being driven and is in possession of such license.

(b) No person may drive a commercial motor vehicle while that person's driving privilege is denied, withdrawn, barred, canceled, suspended, revoked, or disqualified.

(c) No person may drive a commercial motor vehicle in violation of an out-of-service order.

(d) No person may drive a commercial motor vehicle while an out-of-service order is in effect while transporting hazardous materials required to be placarded or while operating a vehicle designed to transport 16 or more passengers, including the driver.

(e) Conditional or occupational licenses may not be issued to holders of a CDL or CLP, nor may any person drive a commercial motor vehicle while in possession of a conditional or occupational license.

(f) Any violation of this section shall be an unclassified misdemeanor, with the penalties set forth in § 2622 of this title.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 134 § 3; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 345 § 4; 75 Del. Laws, c. 391 § 3; 77 Del. Laws, c. 60 § 8; 79 Del. Laws, c. 214 § 3; 79 Del. Laws, c. 279 § 7.)

## § 2608 Commercial driver license qualification standards.

(a) Testing. —

(1) General. — No person may be issued a commercial driver license unless that person is a resident of this State and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the Division of Motor

Vehicles.

(2) Third-party testing. — The Division of Motor Vehicles may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, provided:

a. The test is the same which would otherwise be administered by the State; and

b. The third party has entered into an agreement with the State which complies with requirements of 49 C.F.R. part 383.75.

(3) Testing by State. — Only an agency of the State, as approved by the Division of Motor Vehicles, shall be permitted to administer the skills test specified by this chapter.

(b) Waiver of skills test. — The Division of Motor Vehicles may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77.

(c) Limitations on issuance of license. — A commercial driver license or CLP may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked, denied or cancelled in any state; nor may a commercial driver license be issued to a person who has a commercial driver license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state(s) for cancellation.

(d) Commercial learner permit (CLP). —

(1) The issuance of a CLP is a precondition to the initial issuance of a CDL. A CLP may be issued to an individual who has satisfied the following requirements:

a. Is at least 18 years of age;

b. Holds a valid Delaware driver license; and

c. Has passed the vision and written tests required for a CDL.

(2) The CLP may not be issued for a period to exceed 6 months. Only 1 renewal or re-issuance may be granted within a 1-year period. The 1-year period shall begin with the issuance date of the original permit. The holder of a CLP may, unless otherwise disqualified, drive a commercial motor vehicle only when accompanied by the holder of a commercial driver license, valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle; provided that the CLP holder may not operate a commercial motor vehicle transporting hazardous materials as defined in § 2603 of this title.

(3) A CLP holder is not eligible to take the CDL pre-trip, skills or road test in the first 14 days after initial issuance of the CLP.

(4) A CLP holder is eligible to apply for a passenger, school bus, or tank endorsement while holding a CLP provided the written test is passed for each endorsement prior to the permit issuance. A CLP holder with a passenger or school bus endorsement is prohibited from carrying passengers or students. A CLP holder with a tank endorsement may only operate an empty tank vehicle. All other endorsements as defined by 49 C.F.R. § 383.153 are prohibited on a CLP.

(5) The issuance of a CLP is a precondition to the upgrade of a CDL if the upgrade requires a skills test.

(6) Content of CLP. — The commercial learner permit must be marked "Commercial Learner Permit" or "CLP" and must be, to the maximum extent possible, tamperproof. The CLP must include, but not be limited to, the following information:

a. The name and residential address of the person;

b. The person's photograph;

c. A physical description of the person including sex, height, weight, and eye color;

d. Date of birth;

e. Any unique number or identifier deemed appropriate by the Division of Motor Vehicles;

f. The person's signature;

g. The class or type of commercial motor vehicle(s) which the person is authorized to drive together with any endorsements or restrictions;

h. The name of this State;

i. The issue date of the current license; and

j. The expiration date of the current license.

(7) CLP restrictions. —

a. "P" — Restricts the driver from operating CMV with passengers.

b. "X" — Restricts the driver from operating tank vehicle with cargo.

c. "L" — Restricts the driver from operating a vehicle with airbrakes.

d. "V" — Restricts the driver from operating a CMV without a valid medical variance issued by the Federal Motor Carrier Safety Administration.

e. "M" — Restricts the driver from operating a Class A passenger vehicle.

f. "N" — Restricts the driver from operating a Class A or B passenger vehicle.

g. "K" — Restricts the driver from operating a CMV out of the State of Delaware.

(67 Del. Laws, c. 157 § 1; 74 Del. Laws, c. 216 § 4; 78 Del. Laws, c. 87 § 1; 79 Del. Laws, c. 214 § 4; 79 Del. Laws, c. 279 §§ 1, 7.)

## § 2609 Non-domiciled CDL or CLP.

(a) The Division of Motor Vehicles may issue a non-domiciled CDL or CLP to an applicant who:

(1) Is domiciled in a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. Part 383; or

(2) If the applicant is domiciled in a state that is prohibited from issuing CDLs and CLPs in accordance with 49 C.F.R. § 384.405. The applicant is eligible to obtain a non-domiciled CDL or CLP from any state that complies with testing and licensing standards in accordance with 49 C.F.R. Part 383, and elects to issue non-domiciled CDLs or CLPs.

(3) The word "non-domiciled" must appear on the face of the non-domiciled CDL or CLP. An applicant must surrender any non-domiciled CDL or CLP issued by another state. Prior to issuing a non-domiciled CDL or CLP, the Division of Motor Vehicles must establish the practical capability of revoking, suspending, or cancelling the non-domiciled CDL or CLP and disqualifying that person with the same conditions applicable to the commercial driver license issued to a resident of this State.

(b) [Repealed.]

(67 Del. Laws, c. 157 § 1; 74 Del. Laws, c. 217 § 9; 79 Del. Laws, c. 214 § 5; 79 Del. Laws, c. 279 §§ 2, 7.)

## § 2610 Application for commercial driver license or commercial learner permit.

(a) The application for a commercial driver license or commercial learner permit must include the following:

(1) The full name and current residential and mailing address of the person;

(2) A physical description of the person including sex, height, weight and eye color;

(3) Date of birth;

(4) The applicant's Social Security number;

(5) The person's signature;

(6) Certifications including those required by 49 C.F.R. part 383.71(a);

(7) Any other information required by the Division of Motor Vehicles; and

(8) A consent to release driving record information.

(b) Delaware adopts by reference 49 CFR Part 1572. Therefore, if applying for a hazardous materials endorsement, the applicant must comply with Transportation Security Administration requirements codified in 49 C.F.R. Part 1572, and provide proof of citizenship, by presenting a United States passport, a certificate of birth that bears an official seal and was issued by a State, county, municipal authority or outlying possession of the United States, a Certification of Birth Abroad issued by the U.S. Department of State (Form FS-545 or DS-1350), a Certificate of Naturalization (Form N-550 or N-570), a Certificate of U.S. Citizenship (Form N-560 or N-561) or immigration status by presenting a Permanent Resident Card, Alien Registration Receipt Card (Form 1-551), Temporary I-551 stamp in foreign passport, a Temporary 1-551 stamp on Form 1-94, Arrival/Departure Record with photograph of the bearer or a Reentry Permit (Form 1-327). A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide that lawful permanent resident's Bureau of Citizenship and Immigration Services (BCIS) Alien registration number.

(c) The applicant's noncommercial and commercial driver license from any other jurisdiction must be surrendered to the Division.

(d) The applicant must provide the names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years.

(e) When the name, residential address, or mailing address of a commercial driver license holder changes, an application for a corrected license must be made as provided in this title.

(f) No person who has been a resident of this State for 30 days may drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

(g) Any person who knowingly falsifies information or certifications required under subsection (a) of this section is subject to disqualification of the person's CDL or CLP for a period of at least 60 consecutive days and is guilty of perjury and shall be fined or imprisoned.

(h) If the Division receives credible information that a CLP- or CDL-holder is suspected, but has not been convicted of fraud related to the issuance of his or her CLP or CDL, the driver must be required to retake the CDL skills and knowledge tests. Within 30 days of receiving notification from the State that retesting is necessary, the affected CLP or CDL holder must make an appointment or otherwise schedule to take the next available test. A person's CLP or CDL will be disqualified if he or she fails to make an appointment within 30 days, does not take the required knowledge or skills test, or fails the knowledge or skills test. Once a CLP or CDL holder's privileges have been disqualified, he or she must reapply for a CLP or CDL under state application procedures.

(i) Any person who has been convicted of fraud related to the issuance, renewal, transfer, or upgrade of a CDL/CLP, other than falsifying information or certifications as specified in subsection (g) of this section, shall be disqualified for a period of not less than 1 year.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 216 § 5; 74 Del. Laws, c. 217 § 11; 77 Del. Laws, c. 311 §§ 3, 4; 79 Del. Laws, c. 214 § 6; 79 Del. Laws, c. 279 §§ 3, 7.)

## § 2611 Commercial driver license.

(a) Content of license. — The commercial driver license must be marked "Commercial Driver License" and must be, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

(1) The name and residential address of the person;

(2) The person's photograph;

(3) A physical description of the person including sex, height, weight, and eye color;
(4) Date of birth;
(5) Any unique number or identifier deemed appropriate by the Division of Motor Vehicles;
(6) The person's signature;
(7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
(8) The name of this State;
(9) The issue date of the current license; and
(10) The expiration date of the current license.

(b) Classifications, endorsements and restrictions. — Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles and taxicabs which require special endorsements, unless the proper endorsement appears on the license:

(1) Classification. —

a. CDL Class A. — Any combination of vehicles with a GCWR of 26,001 pounds or more, provided the GVWR of the towed unit(s) is in excess of 10,000 pounds.

b. CDL Class B. — Any single vehicle with a GVWR of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds.

c. CDL Class C. — Any single vehicle or combination of vehicles with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds that is either designed to transport 16 or more passengers, including the driver; or used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 C.F.R. Part 172, subpart F.

(2) Endorsements. —

a. "H" — Authorizes the driver to drive a vehicle transporting hazardous materials.
b. "T" — Authorizes driving double and triple trailers.
c. "P" — Authorizes driving vehicles carrying passengers.
d. "N" — Authorizes driving tank vehicles.
e. "X" — Represents a combination of hazardous materials and tank vehicle endorsements.
f. "S" — Authorizes driving school buses.

(3) Restrictions. —

a. "L" — Restricts the driver from operating vehicles equipped with airbrakes.
b. "Z" — Restricts the driver from operation of full air brake system vehicles.
c. "E" — Restricts the driver from operation of manual transmission vehicles.
d. "O" — Restricts the driver from operating tractor-trailer CMVs.
e. "M" — Restricts the driver from operating a Class A passenger vehicle.
f. "N" — Restricts the driver from operating a Class A or B passenger vehicle.
g. "K" — Restricts the driver from operating a CMV outside the State of Delaware.
h. "V" — Restricts the driver from operating a CMV without a valid medical variance issued through the Federal Motor Carrier Safety Administration.

(c) Applicant record check. — Before issuing a commercial driver license or permit to any person, the Division will perform a records check of the commercial driver license information system, the national driver register's problem driver pointer system, and/or any other information system designated by federal regulation to confirm the holder's identity and determine the applicant's license eligibility. The records check will be performed no earlier than 24 hours prior to the issuance of a commercial driver license or permit. A commercial driver license will not be issued before these mandatory record checks are completed.

(d) License surrender. — A commercial driver license or permit may not be issued to a person who has a CDL or a driver's license issued by another state unless the person first surrenders all such licenses. The Division will either return the surrendered license to the issuing state for cancellation or the Division will destroy the surrendered license document and notify the previous issuing state that the person is now licensed in this State.

(e) Notification of license issuance. — Within 10 days after issuing a commercial driver license or commercial learner permit, the Division of Motor Vehicles must notify the commercial driver license information system of that fact, providing all information required to ensure identification of the person. In the case of transfer issuances, the Division will also implement change state of record transactions in the commercial driver license information system, thereby notifying the commercial driver license information system and the previous state of record that Delaware is now the state of record.

(f) Expiration of license. — Upon receipt of the application and fee and after such examination as provided in this chapter, the Division shall issue, if the applicant has complied with the provisions of this title, a commercial motor vehicle driver license which shall expire and be renewable on the eighth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is

February 29, in which event the license shall expire and be renewable on February 28 every eighth year. Notwithstanding the provisions of the first sentence of this subsection, the Secretary shall issue a commercial motor vehicle driver license endorsed for the transport of hazardous materials for a period of 5 years or less to coincide with the expiration of the Transportation Security Administration approval for the driver to transport hazardous materials.

(g) License transfer and renewal procedures. — Every person applying for a license transfer or renewal of a commercial driver license must complete the application form required by § 2610(a) of this title providing updated information and required certifications, supplying any CDL issued by the previous state, and provide the names of all States where the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years. If the applicant wishes to retain a hazardous materials endorsement, the applicant must have passed the tests required by 49 C.F.R. § 383.121. At the time of application for a transfer, the applicant shall appear and be photographed.

(h) Fees. —

(1) The fee for a commercial motor vehicle driver license shall be $48 except when the commercial motor vehicle driver license is endorsed for the transport of hazardous materials in which event the fee shall be $30. The fee for a non-CDL Class A or non-CDL Class B driver license shall be $40.

(2) The fee for renewal of a commercial motor vehicle driver license shall be $48 except when the commercial motor vehicle driver license is endorsed for the transport of hazardous materials in which event the fee shall be $30. The fee for renewal of a non-CDL Class A or non-CDL Class B driver license shall be $40. A late fee of $10 shall be assessed in addition to the renewal fee for every person whose commercial motor vehicle driver license has expired.

(3) The fee for changing from 1 class to another class shall be $10, if the change requires a written examination or skills test. There shall be no fee assessed if the driver wishes to change to a class of a lower weight vehicle and such change is made at time of renewal of license.

(4) If the applicant wishes to add an endorsement after a commercial driver license has been issued, the fee for adding such endorsement shall be $5.00.

(5) [Repealed.]

(i) Compliance with the Military Selective Service Act —

(1) Any male applicant who applies for a commercial driver license instruction permit or license or a renewal of any such permit or license and who is at least 18 years of age but less than 26 years of age shall be registered in compliance with the requirements of § 3 of the "Military Selective Service Act," 50 U.S.C. App. § 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in paragraph (i)(1) of this section to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that the applicant is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that the applicant's signature constitutes consent to registration with the selective service system, if the applicant is not already registered.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 134 § 4; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 56 § 3; 72 Del. Laws, c. 485 § 1; 74 Del. Laws, c. 110 § 50; 74 Del. Laws, c. 216 § 6; 74 Del. Laws, c. 217 §§ 12, 13; 75 Del. Laws, c. 183 § 1; 75 Del. Laws, c. 220 § 3; 75 Del. Laws, c. 391 §§ 4, 9; 76 Del. Laws, c. 76 §§ 19, 20; 76 Del. Laws, c. 81 § 29; 78 Del. Laws, c. 8 §§ 1-4; 78 Del. Laws, c. 87 § 2; 79 Del. Laws, c. 214 § 7; 79 Del. Laws, c. 279 §§ 4, 7; 80 Del. Laws, c. 77 § 5; 80 Del. Laws, c. 341 § 1.)

## § 2612 Disqualification and cancellation.

(a) A person operating a CMV while either holding a CDL, CLP, or being required to hold a CDL, CLP, or any CDL or CLP holder operating a non-CMV shall be disqualified from driving a commercial motor vehicle for a period of not less than 1 year if convicted of a first violation of the following in accordance with 49 C.F.R. § 383.51, Table 1:

(1) Driving, operating or having in physical control a noncommercial vehicle or a commercial motor vehicle, under the influence of alcohol or a controlled substance, or any drug which impairs driving ability.

(2) Driving, operating or having in physical control a commercial motor vehicle while the alcohol concentration of the person's blood or breath is 0.04 or more.

(3) Knowingly and wilfully leaving the scene of an accident.

(4) Using a motor vehicle in the commission of any felony as defined in this chapter.

(5) Refusal to submit to a breath or blood test to determine the driver's alcohol concentration while driving, operating or having in physical control a motor vehicle.

(6) Using the vehicle to commit a felony, other than a felony described in subsection (d) of this section.

(7) Driving a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's CDL or CLP is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle.

(8) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person shall be disqualified

for a period of 3 years.

(b) A person is disqualified for life if convicted of 2 or more violations of any of the offenses specified in subsection (a) of this section, or any combination of those offenses, arising from 2 or more separate incidents.

(c) The Division of Motor Vehicles may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (b) of this section may be reduced to a period of not less than 10 years.

(d) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance.

(e) A person is disqualified from driving a commercial motor vehicle for a period of 60 days if convicted of 2 serious traffic violations, or 120 days if convicted of 3 or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a 3-year period or committed while operating a noncommercial motor vehicle if the conviction results in the revocation, cancellation, or suspension of the person's license or noncommercial motor vehicle driving privileges. The 120-day disqualification period must be served in addition to any other previous period of disqualification. Serious traffic violations for purposes of this section shall be those violations as specified in 49 C.F.R. § 383.51, Table 2.

(f) After suspending, revoking, or canceling a commercial driver license or commercial learner permit, the Division of Motor Vehicles must update its records to reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the Division of Motor Vehicles must notify the licensing authority of the state which issued the commercial driver license or commercial learner permit within 10 days.

(g) A person who has been disqualified from operating a commercial motor vehicle pursuant to this chapter may be issued a license to operate a noncommercial motor vehicle during such disqualification period provided such person is not otherwise suspended, revoked or canceled pursuant to this title.

(h) After September 30, 1997, a driver who is convicted of violating an out-of-service order is disqualified for the following periods in accordance with 49 C.F.R. § 383.51, Table 4:

(1) First violation. — A driver shall be disqualified for a period of not less than 180 days or more than 1 year if the driver is convicted of a first violation of an out-of-service order. If any such driver is transporting hazardous materials required it be placarded under the Hazardous Materials Transportation Act [§§ 8223 to 8230 of Title 29] or is operating a motor vehicle designed to transport more than 15 passengers, including the driver, that driver shall be disqualified for a period of not less than 180 days nor more than 2 years.

(2) Second violation. — A driver shall be disqualified for a period of not less than 2 years nor more than 5 years if, during any 10-year period, the driver is convicted of 2 violations of out-of-service orders in separate incidents. If any such driver is transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act [§§ 8223 to 8230 of Title 29] or is operating a motor vehicle designed to transport more than 15 passengers, including the driver, that driver shall be disqualified for a period of not less than 3 years nor more than 5 years.

(3) Third or subsequent violations. — A driver shall be disqualified for a period of not less than 3 years nor more than 5 years; if, during any 10-year period the driver is convicted of 3 or more violations of out-of-service orders in separate incidents.

(4) Additional penalties. — In addition to the disqualification, drivers convicted of violating an out-of-service order shall be fined not less than $2,500 nor more than $3,500 for a first conviction and not less than $5,000 nor more than $6,000 for a second or subsequent conviction within a 10-year period. Employers convicted of violating an out-of-service order shall be fined not less than $2,750 nor more than $25,000.

(i) A driver who is convicted of a railroad-highway grade crossing violation shall be disqualified for the following periods in accordance with 49 C.F.R. § 383.51, Table 3:

(1) First violation. — A driver must be disqualified for not less than 60 days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(2) Second violation. — A driver must be disqualified for not less than 120 days if, during any 3-year period, the driver is convicted of a second railroad-highway grade crossing violation in a separate incident.

(3) Third or subsequent violation. — A driver must be disqualified for 1 year if, during any 3-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in a separate incident.

(4) Employer penalties. — An employer who is convicted of a railroad-highway grade crossing violation will be subject to a civil penalty of not more than $10,000 in accordance with 49 C.F.R. § 383.53.

(j) The Division of Motor Vehicles will disqualify a Delaware CDL licensee or CLP holder if the Federal Motor Carrier Safety Administrator declares the licensee not qualified and orders disqualification for them.

(67 Del. Laws, c. 157 § 1; 71 Del. Laws, c. 87 § 3; 73 Del. Laws, c. 345 § 2; 74 Del. Laws, c. 217 § 10; 75 Del. Laws, c. 186 §§ 1, 2; 75 Del. Laws, c. 391 § 5; 76 Del. Laws, c. 348 §§ 1-3; 79 Del. Laws, c. 214 § 8; 79 Del. Laws, c. 279 §§ 5-7.)

## § 2613 Prohibited alcohol offenses for commercial motor vehicle drivers.

(a) Notwithstanding any other provision of this title, a person may not drive, operate, or be in physical control of a commercial motor vehicle within this State while having any measurable amount of alcohol in the person's system.

(b) A person who drives, operates, or is in physical control of a commercial motor vehicle within this State while having any measurable

amount of alcohol in the person's system or who refuses to submit to an alcohol test as provided by § 2614 of this title, must be placed out of service for 24 hours.

(c) Any person who drives, operates or is in physical control of a commercial motor vehicle within this State with an alcohol concentration of 0.04 or more must, in addition to any other sanctions which may be imposed under this title, be disqualified from driving a commercial motor vehicle under § 2612 of this title.

(d) Upon certification by the police officer that there existed probable cause to believe that the person was in violation of § 4177M of this title or a local ordinance substantially conforming thereto, and the person was arrested on that occasion for a violation of § 4177M of this title or a local ordinance substantially conforming thereto, the Secretary shall disqualify the person's commercial driver license and/or driving privileges in accordance with provisions specified in § 2612(a) and (b) of this title.

(e) Any violation of this section shall be an unclassified misdemeanor, with the penalties set forth in § 2622 of this title.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 60 § 9; 77 Del. Laws, c. 311 § 5.)

## § 2614 Implied consent requirements for commercial motor vehicle drivers.

(a) A person who drives a commercial motor vehicle within this State is deemed to have given consent, subject to provisions of this title, to take a test or tests of that person's blood or breath for the purpose of determining that person's alcohol concentration, or the presence of other drugs.

(b) A test or tests may be administered at the direction of a law-enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in the driver's system.

(c) A person requested to submit to a test as provided in subsection (a) of this section must be warned by the law-enforcement officer requesting the test, that a refusal to submit to the test will result in that person being immediately placed out of service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than 1 year under § 2612 of this title.

(d) If the person refuses testing, or submits to a test which discloses an alcohol concentration of 0.04 or more, the law-enforcement officer must submit a sworn report to the Division of Motor Vehicles certifying that the test was requested pursuant to subsection (a) of this section and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of 0.04 or more.

(e) Upon receipt of the sworn report of a law-enforcement officer submitted under subsection (d) of this section, the Division of Motor Vehicles must disqualify the driver from driving a commercial motor vehicle under § 2612 of this title.

(67 Del. Laws, c. 157 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2615 Notification of traffic convictions.

(a) Whenever a person who holds a CDL from another state is convicted of a violation of this State or local law relating to motor vehicle traffic control (other than a parking violation), in any type of vehicle, the Division must notify the licensing entity in the State where the driver is licensed of this conviction within 30 days of the conviction, except beginning on September 30, 2008, the notification must be made within 10 days of the conviction.

(b) Whenever a person who does not hold a CDL or CLP but is licensed to drive by another State and is convicted of a violation of this State or local law relating to motor vehicle traffic control (other than a parking violation), in a CMV, the Division must notify the licensing entity in the State where the driver is licensed of this conviction within 30 days of the conviction, except beginning on September 30, 2008, the notification must be made within 10 days of the conviction.

(c) Whenever the Division receives notification of failure to appear, failure to pay, or failure to comply from a Delaware court or from any other state for a violation relating to motor vehicle traffic control (other than a parking violation) the failure to appear, failure to pay, or failure to comply will be posted to the driver's record as a conviction under the following conditions:

(1) For any person operating a CMV while either holding a CDL/CLP or being required to hold a CDL/CLP; or

(2) For any CDL/CLP holder operating any type of vehicle.

(d) Whenever an unlicensed driver from this State is convicted of any violation as provided in § 2612 of this title, the Division will establish a driving record in the person's name and, if appropriate, withdraw the person's driving privileges by license suspension, revocation, disqualification, cancellation or denial when authorized by statute or Division policy. Those persons whose driving privileges are withdrawn under this section will be reinstated when they have completed the reinstatement procedures specified in statute or Division policy.

(67 Del. Laws, c. 157 § 1; 75 Del. Laws, c. 391 § 6; 77 Del. Laws, c. 311 § 6; 79 Del. Laws, c. 214 § 9; 79 Del. Laws, c. 279 §§ 6, 7.)

## § 2616 Driving record information to be furnished.

Notwithstanding any other provision of law to the contrary, the Division of Motor Vehicles must furnish full information regarding the driving record of any person:

(1) To the driver license administrator of any other state, or province or territory of Canada, requesting that information;

(2) To any employer or prospective employer upon request and payment of a fee of $4.00;

(3) To other persons, pursuant to § 305 of this title.

(67 Del. Laws, c. 157 § 1.)

## § 2617 Rulemaking authority.

The Department may adopt any rules and regulations necessary to carry out the provisions of this chapter.
(67 Del. Laws, c. 157 § 1.)

## § 2618 Authority to enter agreements.

The Department may enter into or make agreements, arrangements, or declarations to carry out the provisions of this chapter.
(67 Del. Laws, c. 157 § 1.)

## § 2619 Reciprocity.

(a) Notwithstanding any law to the contrary, a resident of another state who is issued a CDL/CLP or non-domiciled CDL/CLP issued by that state, or by the Canadian Provinces and Territories in conformity with the Canadian National Safety Code, or a Licencia Federal de Conductor issued by the United Mexican States, may drive a commercial motor vehicle in this State if the person has a valid CDL/CLP, or valid non-domiciled CDL/CLP issued by those jurisdictions in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person is not suspended, revoked or canceled, and if the person is not disqualified from driving a commercial motor vehicle, or subject to an "out-of-service" order. A driver holding a commercial driver license issued under the Canadian National Safety Code or Licencia Federal de Conductor issued by Mexico is prohibited from obtaining non-domiciled CDL/CLP or any type of Delaware driver license unless the driver becomes a resident of this State and surrenders all driver licenses issued by Canada or Mexico.

(b) The Division of Motor Vehicles must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this State.

(67 Del. Laws, c. 157 § 1; 75 Del. Laws, c. 391 § 7; 79 Del. Laws, c. 214 § 10; 79 Del. Laws, c. 279 §§ 6, 7.)

## § 2620 False statements; incorrect or incomplete information.

(a) Whoever makes any false affidavit or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter to be sworn to or affirmed is guilty of perjury and shall be fined or imprisoned as are other persons committing perjury.

(b) Whoever provides information that is incorrect or incomplete when applying for a commercial driver's license is guilty of perjury and shall be fined or imprisoned as are other persons committing perjury.

(c) Any driver's license or driving privileges for a person guilty of this section shall be forthwith suspended or canceled.

(67 Del. Laws, c. 157 § 1.)

## § 2621 Waivers for commercial driver license provisions.

(a) The provisions of this chapter are waived for the following specific groups of drivers who operate:

(1) Farm vehicles which are:

a. Controlled and operated by a farmer;

b. Used to transport either agricultural products, farm machinery, farm supplies or both to or from a farm;

c. Not used in the operations of a common or contract motor carrier;

d. Used within 150 miles of the person's farm; and

e. Not used for hire.

(2) Firefighting equipment which is:

a. Used by any fire company in this State which is necessary for the preservation of life or property or the execution of emergency governmental functions, or other authorized uses by the fire company.

b. Being operated by firefighters and other persons qualified to operate the equipment under paragraph (a)(2)a. of this section when operating such equipment in other functions such as parades, special events, repair, service or other authorized movements.

(3) Commercial motor vehicles for military purposes. This exception is applicable to active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel. This exception is not applicable to U.S. Reserve technicians.

(4) Recreational vehicles or trailers as defined in Chapter 1 of this title, which provide temporary living quarters and are used solely for recreational purposes.

(5) Emergency mobile communication units operated in relation to a county emergency communication center, the State Police, or any municipality.

(6) Any other emergency vehicle, as defined by § 4106(e) of this title, used in the preservation of life or property or in the execution of emergency governmental functions and are equipped with audible and visual signals and are not subject to normal traffic regulation.

(b) When operating a commercial motor vehicle as defined by § 2603 of this title, under the waiver provisions of paragraphs (a)(1), (2), (5), and (6) of this section, operators are required to hold a non-CDL Class A or non-CDL Class B license. Those drivers holding non-CDL Class A or non-CDL Class B licenses are limited to operating commercial motor vehicles within the State of Delaware unless there is a reciprocity agreement with adjoining states. These licenses will be classified in accordance with § 2611(b)(1) of this title.

(67 Del. Laws, c. 157 § 1; 68 Del. Laws, c. 283 §§ 1, 2; 72 Del. Laws, c. 56 §§ 1, 2; 75 Del. Laws, c. 186 § 3; 75 Del. Laws, c. 391 § 8; 76 Del. Laws, c. 233 §§ 1-3, 5; 78 Del. Laws, c. 87 § 1.)

## § 2622 Penalties.

(a) Whoever violates §§ 2604, 2605(b)-(c), 2606, 2607, 2612 and 2613 of this title shall for the first offense be fined not less than $200 nor more than $2,500. For subsequent offense the person shall be fined not less than $500 nor more than $5,000 or imprisoned for a term not to exceed 90 days, or both.

(b) This section shall not apply to violations for which a specific penalty is set forth elsewhere in this chapter.

(67 Del. Laws, c. 157 § 1; 76 Del. Laws, c. 348 § 4.)

## § 2623 Other penalties.

(a) Whoever violates this chapter shall for the first offense be fined not less than $50 nor more than $100. For each subsequent like offense, the person shall be fined not less than $100 nor more than $200, or imprisoned not less than 10 days nor more than 30 days or both .

(b) This section shall not apply to violations for which a specific penalty is set forth elsewhere in this chapter.

(67 Del. Laws, c. 157 § 1.)

## § 2624 Jurisdiction.

Justices of the peace shall have jurisdiction over violations of this chapter.

(67 Del. Laws, c. 157 § 1.)

## § 2625 Masking violations.

The State shall not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL/CLP holder's and CMV driver's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law (except a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in this State or another state.

(75 Del. Laws, c. 184 § 2; 77 Del. Laws, c. 311 § 7; 79 Del. Laws, c. 214 § 11; 79 Del. Laws, c. 279 §§ 6, 7.)

## § 2626 CDL medical certification requirements.

(a) CDL medical self-certification requirements. —

(1) Beginning January 30, 2012, any person applying for an initial CLP/CDL must self-certify to the Division that he or she is operating commercial motor vehicles in a nonexcepted interstate commerce, excepted interstate commerce, nonexcepted intrastate commerce or excepted intrastate commerce status.

(2) Existing CDL holders must self-certify to the Division on or after January 30, 2012, but not later than January 30, 2014, that he or she operates commercial motor vehicles in a nonexcepted interstate commerce, excepted interstate commerce, nonexcepted intrastate commerce or excepted intrastate commerce status.

(3) It is the responsibility of the CDL/CLP holder to immediately notify the Division if/when his or her medical certification status changes.

(b) Medical certification documentation requirements for nonexcepted interstate commerce drivers after January 30, 2012. —

(1) Any person applying for an initial CLP/CDL who certifies that he or she will operate CMVs in nonexcepted, interstate commerce must provide the Division with the current, original medical examiner's certificate prepared by a medical examiner who, on and after May 21, 2014, is currently certified by FMCSA and is listed on the National Registry of Certified Medical Examiners confirming the applicant meets the minimum physical qualifications for CMV operators in accordance with federal regulations.

(2) On or after January 30, 2012, but not later than January 30, 2014, existing CDL holders must provide the Division with the current original or copy of the medical examiner's certificate prepared by a medical examiner who, on and after May 21, 2014, is currently certified by FMCSA and is listed on the National Registry of Certified Medical Examiners confirming the CDL holder meets the minimum physical qualifications for CMV operators in accordance with federal regulations.

(3) In order to maintain a medical certification status of certified, the CDL/CLP holder who certifies that he or she will operate CMVs in nonexcepted interstate commerce must provide the Division with a current original or copy of each subsequent medical examiner's certificate prepared by a medical examiner confirming the CDL/CLP holder meets the minimum physical qualifications for CMV operators in accordance with federal regulations.

(c) CDL/CLP issuance procedures for drivers who after January 30, 2012, self-certify as operating in nonexcepted interstate commerce. —

(1) The Division must verify the driver has self-certified as a nonexcepted interstate commerce operator.

(2) The Division must verify the driver has a "certified" medical status on the medical examiner's certificate and on the CDLIS driver record.

(3) In the event that the driver has not self-certified or the medical certification status of the individual is "not-certified," the applicant will be denied a CDL/CLP issuance, renewal, upgrade or transfer, and the CDL will be downgraded.

(4) Approximately 60 days before a medical examiner's certificate expires, the Division will attempt to notify the CDL/CLP holder requiring him or her to either submit a current medical certificate or self-certify that he or she now operates a CMV in excepted interstate

commerce, nonexcepted intrastate commerce or excepted intrastate commerce. The CDL/CLP will be downgraded no later than 60 days after the CDL/CLP holder's current medical certification expires or when determined to be "not-certified" if:

a. He or she does not change his or her self-certification to excepted interstate commerce, nonexcepted intrastate commerce, or excepted intrastate commerce;

b. He or she does not present to the Division a current medical certificate;

c. His or her FMCSA medical variance expires; or

d. The FMCSA notifies the Division that his or her medical variance was removed or rescinded.

(5) Upon notification from the FMCSA that a medical variance has been issued to a CDL/CLP driver, the Division shall file, electronically or otherwise, medical variance information, the CDLIS driver record will be updated, and the CDL/CLP document will show a restricted code "V" indicating there is information about a medical variance on the CDLIS driver record. Within 10 calendar days of receiving information from the FMCSA regarding the issuance or renewal of a medical variance for a driver, the Division must update the CDLIS driver record to include the medical variance information provided by the FMCSA.

(d) CDL driver physical qualifications and recordkeeping requirements for nonexcepted interstate commerce drivers. —

(1) A CDL/CLP holder who is subject to the physical requirements contained in 49 C.F.R. § 391.41 must not operate a commercial motor vehicle unless he or she is medically certified as physically qualified to do so, and, except as provided in paragraph (b)(2) of this section, when on duty, has on his or her person the original or a copy of a current medical examiner's certificate that he or she is physically qualified to drive a commercial motor vehicle.

(2) Beginning January 30, 2014, a CDL/CLP holder who has submitted a current medical examiner's certificate to the Division in accordance with 49 C.F.R. § 383.71(h) substantiating he or she is medically "certified," no longer needs to carry on his or her person the medical examiner's certificate once the medical certification information is posted on the CDLIS driver record. The Division will post the medical information in CDLIS within 10 days after the driver submits a current medical certificate. If there is no medical certification information on that driver's CDLIS driver record, a current medical examiner's certificate issued prior to January 30, 2012, will be accepted until January 30, 2014.

(3) A CDL/CLP driver who obtained a medical variance from the FMCSA must continue to have in his or her possession the original or copy of that medical variance documentation at all times when driving a CMV.

(4) Canadian and Mexican CMV drivers are not required to have in their possession a medical examiner's certificate if the driver has been issued and possesses a valid commercial driver license issued by the United Mexican States or Canadian Province or Territory and whose license and medical status, including any waiver or exemption, can be electronically verified. Drivers from any of the countries who have received a medical authorization that deviates from the mutually accepted compatible medical standards of the resident country are not qualified to drive a CMV in the other countries. Canadian and Mexican drivers who do not meet the medical fitness provisions of their home country for motor carriers are not qualified to drive a CMV in the United States even if that driver has received a medical variance or waiver. In addition, United States drivers who receive a medical variance from the FMCSA are not qualified to drive a CMV in Canada or Mexico.

(e) CDL/CLP holders self-certifying that they operate or expect to operate CMVs in excepted interstate commerce must:

(1) Meet the minimum physical qualifications for CMV operators as determined in 49 C.F.R. § 390.3(f), § 391.2, § 391.68, or § 398.3; and

(2) Self-certify to the Division that that operate or expect to operate CMVs in excepted interstate commerce upon each renewal of their CDLs.

(f) CDL/CLP holders self-certifying that they operate or expect to operate CMVs in nonexcepted intrastate or excepted intrastate commerce must:

(1) Meet the minimum physical qualifications for CMV operators as determined in § 4704 of this title;

(2) Self-certify to the Division that they operate or expect to operate CMVs in nonexcepted intrastate or excepted intrastate commerce upon each renewal of their CDLs;

(3) Meet the minimum physical qualification requirements for CMV operators as determined in subsections (b) through (d) or subsection (e) of this section before the CDL holders may have the "K" restriction removed from their CDL/CLP.

(g) Release of medical certification information in the CDLIS driver record. — Except where prohibited by § 305 of this title or Division policies, the following authorized agents may receive CDLIS driver record information:

(1) States. — All information on all CDLIS driver records.

(2) Secretary of Transportation. — All information on all CDLIS driver records.

(3) Driver. — All information on that driver's CDLIS driver record obtained on the CDLIS motor vehicle record.

(4) Motor carrier or prospective motor carrier. — After the employer or prospective employer notifies the driver, all information on that driver's or prospective driver's CDLIS driver record obtained on the CDLIS motor vehicle record.

(78 Del. Laws, c. 87 § 3; 70 Del. Laws, c. 186 § 1; 79 Del. Laws, c. 214 § 12; 79 Del. Laws, c. 279 §§ 6, 7.)

# Part II
# Registration, Title and Licenses
# Chapter 27
# DRIVER'S LICENSE
## Subchapter I
## General Provisions

### § 2701 Driving without a license; penalties.

(a) No person shall drive a motor vehicle on a public street or highway of this State without first having been licensed under this chapter, unless expressly exempt from the licensing requirements.

(1) Those students enrolled in an approved Delaware Department of Education driver education course can drive without a learner's permit when under the supervision of a certified driver education teacher.

(2) Failure to adhere to the Level 1 Learner's Permit restrictions under § 2710(c) of this title or temporary instruction permit restrictions under § 2712(a) of this title constitutes a violation of this section. Those motor vehicle operators holding a Level 1 Learner's Permit or temporary instruction permit who violate this section will be suspended for 2 months for the first offense and 4 months for any subsequent offenses.

(b) No person shall drive a motor vehicle on a public street or highway of this State after serving a period of suspension, revocation or license denial, without first having obtained a valid license through proper reinstatement procedures as prescribed by this title.

(c) No person shall drive on a public street or highway of this State a motor vehicle of a class or type for which the person has not been duly licensed.

(d) No person whose license has expired shall drive a motor vehicle on a public street or highway of this State.

(e) Whoever violates subsection (a) or (b) of this section shall for the first offense be fined not less than $50 nor more than $200. For each subsequent like offense, the person shall be fined not less than $100 nor more than $500 or imprisoned for a term not to exceed 6 months, or both.

(f) Whoever violates subsection (c) or (d) of this section shall for the first offense be fined not less than $25 nor more than $100. For each subsequent like offense, the person shall be fined not less than $50 nor more than $100.

(36 Del. Laws, c. 10 § 51; Code 1935 § 5589; 21 Del. C. 1953 § 2701; 55 Del. Laws, c. 313 § 1; 58 Del. Laws, c. 239 § 51; 61 Del. Laws, c. 343 § 1; 65 Del. Laws, c. 503 § 11; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 282 § 7.)

### § 2702 Definitions.

(a) The Division upon issuing a driver's license shall indicate thereon, in a manner prescribed by the Division, the type or general class of vehicles the licensee may drive.

(b) The Division shall establish such qualifications as it believes reasonably necessary for the safe operation of the various types, sizes or combinations of vehicles and shall appropriately examine each applicant according to the type or general class of license applied for.

(c)(1) When the licensee desires to change the type or class of license which the licensee has been issued and such change requires another examination to be administered, a fee of $10 shall be assessed for such change.

(2) When the licensee desires to add an endorsement or endorsements to the licensee's license, and the endorsement requires additional testing, a fee of $5.00 shall be assessed.

(3) These fees shall not be imposed on motorcycle applicants for whom fees are required under § 2703 of this title.

(d) Vehicles driven by minor permit holders. —

(1) A "Driver Education Learner's Permit" authorizes the holder to operate those vehicles that a holder of a Class D operator's license can operate.

(2) A "Level 1 Learner's Permit" authorizes the holder to operate those vehicles referenced under paragraph (d)(1) of this section.

(e) Classifications, endorsements and restrictions. —

(1) Class D operator's license. — Authorizes the license holder to operate any single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds. The vehicle must be designed to transport 15 or fewer passengers, including the driver, and they shall not transport hazardous materials which require the vehicle to be placarded under federal law.

(2) Temporary license. — A temporary license may be issued to the holder of a valid Class D operator's license or commercial driver's license to extend the expiration date, to replace a lost license or in lieu of the Class D or CDL licensing document. A temporary license or temporary instruction permit may be issued to an unlicensed driver for specialized training.

(3) Temporary instruction permit. — Authorizes the holder to operate those vehicles defined under paragraph (e)(1) of this section.

(4) Commercial driver's license. — CDL Class A, CDL Class B and CDL Class C licenses are defined in § 2611(b) of this title.

(5) Conditional license. — Limited driving privileges granted under §§ 2607(b), 4177C, 4177E [repealed], § 4177K(c) [repealed] or § 4177K(e) [repealed] of this title; § 4767 of Title 16; and § 1012 of Title 10.

(6) Occupational license. — Limited driving privileges granted under §§ 2118(r), 2607(b) and 2733(g) of this title.

(7) Hardship license. — Limited driving privileges granted under § 2751(s) of this title.

(8) Endorsement and restriction codes. — The Division is authorized to establish endorsement and restriction codes based upon this title.

(9) Non-CDL Class A or non-CDL Class B license. — Authorizes the holder to operate farm vehicles, fire-fighting equipment, and other authorized emergency vehicles under the commercial driver license waivers defined in § 2621 of this title.

(10) IID license. — Authorizes the holder to operate a vehicle with full Class D operators driving privileges only when the vehicle is equipped with an ignition interlock device.

(36 Del. Laws, c. 10 § 62; Code 1935 § 5600; 21 Del. C. 1953 § 2702; 58 Del. Laws, c. 485; 60 Del. Laws, c. 339 § 1; 67 Del. Laws, c. 157 § 2; 67 Del. Laws, c. 260 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 282 § 6; 71 Del. Laws, c. 375 § 1; 72 Del. Laws, c. 92 § 3; 73 Del. Laws, c. 414 § 1; 74 Del. Laws, c. 135 § 3; 74 Del. Laws, c. 273 § 1; 76 Del. Laws, c. 233 § 4; 78 Del. Laws, c. 13 §§ 60, 70; 79 Del. Laws, c. 295 § 1; 79 Del. Laws, c. 396 § 2.)

## § 2703 License to operate a motorcycle, motorbike, etc.

(a) No person shall operate a motorcycle, motorbike or other 2-wheeled or 3-wheeled motor-driven vehicle, as defined in § 101(34) of this title, upon a highway of this State without having been properly licensed and having passed, to the satisfaction of the Department, an examination testing the person's ability to operate such vehicle safely. The Department shall place a motorcycle endorsement on the driver license authorizing the operation of such vehicle. A person who passes an examination administered by the Department on a 3-wheeled motorcycle shall have a restriction placed on his or her driver license, in addition to the motorcycle endorsement, limiting him or her to the operation of 3-wheeled motorcycles. A temporary motorcycle instruction permit can be issued to a person age 18 or older after passing a written motorcycle examination. This permit expires in 6 months. If for any reason whatsoever the applicant fails to pass the required road skills examination during the 6-month period granted by the permit, the permit shall be void, and the fee paid therefor shall be forfeited unless the applicant requests an extension thereof and pays the sum of $5.00. Upon payment of said sum the Division shall immediately issue 1 extension only of the permit for an additional 6 months. If the applicant fails to pass the required examination within the additional 6-month period, the permit shall become void. The following provisions shall apply to a person while operating a motorcycle with a temporary instruction permit for the operation of a motorcycle:

(1) No passengers shall be allowed on the motorcycle;

(2) Operating a motorcycle between sunset and sunrise is prohibited;

(3) A safety helmet and eye protection as approved by the Office of Highway Safety must be worn; and,

(4) Operation is not permitted on the federal interstate highway system.

(b) The initial and subsequent renewal fee for an authorization or endorsement under this section shall be $8.00 when the authorization or endorsement holder also holds a commercial motor vehicle driver license endorsed for the transport of hazardous materials. Otherwise, the fee for an initial authorization or endorsement under this section and each renewal shall be $12.

(c) Of each of the initial fees for authorization or endorsement collected pursuant to subsection (b) of this section the sum of $5.00 is appropriated to the Department of Transportation and shall be placed in a special account to be used only for expenses incurred in the administration of the motorcycle rider education program. For each fee collected for subsequent renewals pursuant to subsection (b) of this section, the total of such renewal fee shall also be appropriated to the Department of Transportation to be placed in said special account.

(d) The authorization or endorsement specified in subsection (a) of this section shall not be issued by the Division to any person under the age of 18 years unless the application therefor is signed both by the applicant and by the parent, guardian or court-ordered custodian of the applicant with whom the applicant resides in this State.

(1) Nevertheless, if the applicant has no parent, guardian or court-ordered custodian residing in the State to act as that applicant's sponsor, another responsible adult person who resides with the applicant in this State who is acceptable to the Secretary of Transportation may sign the application.

(2) The following sponsors are listed in order of priority:

a. Father or mother of the minor, if both parents are living together within this State and the minor resides with both parents;

b. Father of the minor, if the father is living within this State, and the minor resides with the father only; mother of the minor, if the mother is living within this State, and the minor resides with the mother only; or the father or mother, if the father or mother live within this State, and the minor resides with neither parent, and the minor has no legal guardian within this State;

c. Guardian or court-ordered custodian of the minor, duly appointed as such, under the laws of this State; or

d. Any suitable person acceptable to the Secretary of Transportation.

(3) The Department shall not require as a prerequisite to the issuance of a license to a minor under this section, that the father, mother, guardian or court ordered custodian who signs the minor's driver license application be present at the time the application is made by the minor, or sign the application at the offices of the Division of Motor Vehicles. The signing of the application and acknowledgment thereof by the natural parent, guardian, or court ordered custodian before a notary public or other person authorized to administer oaths shall be deemed sufficient to satisfy the requirements of this section. Sponsors designated in paragraph (d)(2)d. of this section shall sign

the minor's license application in the presence of a Division representative.

(4) The sponsor who signs the motorcycle endorsement application on behalf of a minor can withdraw their sponsorship at any time until the minor reaches 18 years of age, thereby canceling the minor's authority to drive a motorcycle. If the court terminates the custody order and the minor subsequently resides with a parent in this State, then the parent may cancel the driving privileges of the minor under this section. Once canceled, the applicant can reapply for a motorcycle endorsement when they meet the provisions of this section and pay the endorsement fee.

(5) It shall be unlawful for any person to sign the application of a minor under this section when such application misstates the age of the minor or misrepresents themselves or their relationship to the minor. Any person who violates this provision shall be guilty of a class B misdemeanor. Both the minor applicant and the sponsor's driver's license will be suspended for 2 months under § 2733(a)(5) of this title.

(e) The authorization or endorsement specified in subsection (a) of this section shall not be issued by the Department to any person under the age of 18 years unless such person:

(1) Complies with subsection (d) of this section; and

(2) Completes a motorcycle rider education program, such program having been approved by the State Department of Transportation pursuant to this chapter.

(21 Del. C. 1953 § 2702A; 55 Del. Laws, c. 313 § 1; 59 Del. Laws, c. 373 §§ 1, 2; 62 Del. Laws, c. 237 §§ 2, 3; 65 Del. Laws, c. 27 § 2; 65 Del. Laws, c. 356 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 282 §§ 3, 4; 72 Del. Laws, c. 46 § 1; 72 Del. Laws, c. 225 §§ 1, 2; 72 Del. Laws, c. 344 §§ 3, 4; 74 Del. Laws, c. 110 §§ 51-55; 76 Del. Laws, c. 41 §§ 1, 2; 76 Del. Laws, c. 260 §§ 1-4; 78 Del. Laws, c. 8 §§ 5-7; 78 Del. Laws, c. 212 §§ 1-3; 80 Del. Laws, c. 136 § 1; 80 Del. Laws, c. 168 § 2.)

## § 2704 Licenses of new residents; penalty.

(a) Every person desiring to operate a motor vehicle shall, within 60 days after taking up residence in this State, apply to the Secretary and obtain the proper license.

(b) Whoever violates subsection (a) of this section shall for the first offense be fined not less than $25 nor more than $100. For each subsequent like offense, the violator shall be fined not less than $50 nor more than $200, or imprisoned not less than 10 nor more than 30 days, or both.

(c) The Division of Motor Vehicles shall provide notice of the obligation to register pursuant to § 4120 of Title 11 to each new resident applicant for a license to operate a motor vehicle. Every applicant for a driver's license shall sign an acknowledgment provided by the Division that the applicant has received notice that registration in compliance with § 4120 of Title 11 is mandatory for any person who has been convicted in any other state of any offense which, if committed or attempted in this State, would have been punishable as 1 or more of the offenses referenced in § 4120(a) of Title 11, and that such registration must occur within 7 days of coming into any county, city or town in which the applicant temporarily resides or is domiciled for that length of time.

All such signed acknowledgments shall be kept as permanent records by the Division in a format approved by the Director of Historical and Cultural Affairs, which may include storage on microfiche or other nonpaper forms of permanent retention.

(Code 1935 § 5546A; 48 Del. Laws, c. 293 § 1; 21 Del. C. 1953 § 2703; 57 Del. Laws, c. 670 § 11A; 62 Del. Laws, c. 237 § 4; 64 Del. Laws, c. 466 § 6; 65 Del. Laws, c. 503 § 12; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 397 §§ 20, 21.)

## § 2705 Persons exempt from licensing requirements.

The licensing requirements of this title do not apply to:

(1) An individual while driving or operating a road roller, road machinery or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways;

(2) A member of the armed forces of the United States who is serving on active duty and any dependent of the member, if:

a. The driver possesses a license to drive issued to the driver by the driver's state of domicile; and

b. The license authorizes the driver to drive in the driver's state of domicile vehicles of the class that the driver is driving in this State; or

(3) For not more than 30 days after the driver returns to the United States, a member of the armed forces of the United States who is returning from active duty outside the United States and any dependent of the member who is returning from residence with the member outside the United States, if:

a. The driver possesses a license to drive issued to the driver by the armed forces of the United States in a place outside the United States; and

b. The license authorizes the driver to drive vehicles of the class that the driver is driving in this State.

(36 Del. Laws, c. 10 § 52; Code 1935 § 5590; 21 Del. C. 1953 § 2704; 62 Del. Laws, c. 237 § 5; 64 Del. Laws, c. 468 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2706 Nonresident operators.

(a) A nonresident over the age of 16 years who has been duly licensed under a law requiring the licensing of operators in the nonresident's home state or country and who has in the nonresident's immediate possession a valid operator's license issued to the nonresident in the nonresident's home state or country shall be permitted without examination or license under this chapter to drive a motor vehicle upon the highways of this State.

(b) No nonresident whose home state or country does not require the licensing of operators and who has not been licensed as an operator in the nonresident's home state or country shall operate any motor vehicle upon any highway in this State without first making application for and obtaining a license as an operator as required under this chapter, except that any unlicensed nonresident who is over the age of 16 years and who is the owner of a motor vehicle which has been duly registered for the current registration year in the state or country of which the owner is a resident may operate such motor vehicle upon the highways of this State for a period of not more than 30 days in any 1 year without making application for or obtaining an operator's license under this chapter upon condition that the motor vehicle shall at all times display the license number plate or plates issued therefor in the home state or country of the owner and that the nonresident owner has in the nonresident's immediate possession a registration card evidencing such ownership and registration in the nonresident's home state or country.

(36 Del. Laws, c. 10 § 53; Code 1935 § 5591; 42 Del. Laws, c. 171 § 1; 21 Del. C. 1953 § 2705; 62 Del. Laws, c. 237 §§ 6-11; 70 Del. Laws, c. 186 § 1.)

## § 2707 License qualifications.

(a)(1) No Class D operator's license shall be issued to any person under the age of 16 years. A CDL Class A, CDL Class B or CDL Class C license shall not be issued to any person under 18 years of age nor to any person 18 years of age or older who has not had at least 1 year's experience as an operator of a motor vehicle.

(2) No endorsement for "L", "T", "P" or "N" shall be issued to any person under 18 years of age or to any person 18 years of age or older who has not had at least 1 year's experience as an operator of a motor vehicle. No endorsement of "H" or "X" shall be issued to any person under 21 years of age or to any person 21 years of age or older who has not had at least 1 year's experience as an operator of a motor vehicle.

(b) The Department shall not issue an operator's or chauffeur's license to any:

(1) Person whose license has been suspended, during the period for which license was suspended;

(2) Person whose license has been revoked under this chapter until the expiration of 1 year after such license was revoked;

(3) Person whom it has determined is an habitual drunkard or is addicted to the use of narcotic drugs;

(4) Person when in the opinion of the Department such person is a person with a physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways;

(5) Person who is unable to understand highway warning or direction signs in the English language;

(6) Person who is subject to loss of consciousness due to disease of the central nervous system, unless such person furnishes the Department with a certificate of the person's treating physician, duly licensed to practice medicine and surgery, which certificate states:

"I _____ (name of treating physician) hereby certify that I am the treating physician for _____ (name of person), that I have been the treating physician for him/her for a period of at least 3 months, that I am aware of his/her medical history, including his/her history with respect to diseases of the central nervous system, and that such person's physical or mental disability under sufficient control to permit him/her to operate a motor vehicle with safety to person and property."

Each person licensed to operate a motor vehicle on the basis of such certificate shall furnish the Department with a new certificate each year not later than the last day of the holder's birth month and not earlier than 45 days before said date. The certificate shall show that on the basis of an examination within said period a physician duly licensed to practice medicine and surgery has determined that the physical or mental disability remains under sufficient control to permit the person to operate a motor vehicle with safety to person and property. Except as provided below, if such certificate is not received by the Department, the Department shall suspend said license and shall notify its holder.

The above provision of this paragraph notwithstanding, if the person's treating physician, duly licensed to practice medicine and surgery, furnishes the Department with a certificate which states:

"I _____ (name of treating physician) hereby certify that I am the treating physician for _____ (name of person), that I have been the treating physician for him/her for a period of at least 3 months, that I am aware of his/her medical history, including his/her history with respect to any disease of the central nervous system, that such person's disease no longer requires treatment and that such person can reasonably be expected to suffer no further losses of consciousness on account of such disease.";

the Department may find that the person need no longer submit annual certificates of competence to operate a motor vehicle and shall notify the person accordingly. The Department may at its discretion retain medical consultants to advise it. No physician who examines a person and provides a certificate in good faith in accordance with this paragraph shall be subject to any civil or criminal liability on account of having provided the certificate.

(7) Person who has not reached the person's eighteenth birthday unless such person has either:

a. Completed a course in driver education in a public or private high school in this State, such course having been approved by the State Board of Education and meeting the standards for such courses described by that Board; or

b. Been licensed to operate motor vehicles in another state and has completed a course of instruction in driver education and the safe operation of motor vehicles in a public or private high school outside this State.

(8) Person who has not reached the person's eighteenth birthday upon notification by the Family Court of the State pursuant to § 1009 of Title 10, for a time set by the Court in its discretion.

(9) Except as provided by § 1012 of Title 10, a person who has not reached the person's twenty-first birthday at the time of the offense, who has been convicted of or pleads guilty to, including a conviction or guilty plea pursuant to § 4767 of Title 16 and qualifying for first offender election under § 4177B of this title, any of the offenses listed hereinafter or who has been adjudicated delinquent as a result of acts which would constitute such offense if committed by an adult, for a period of 2 years from the date of sentencing, or until said person's eighteenth birthday, whichever is longer. The following shall constitute offenses under this paragraph:

a. Any drug offense under Title 16.

b. Any drug offense under Chapter 5 of Title 11.

c. Driving under the influence of alcohol or drugs as defined in § 4177 of this title.

d. Any offense punishable under the laws of the United States or any state of the United States substantially conforming to the provisions of the Delaware Code listed in paragraph (b)(9)a., b. or c. of this section.

Upon entry of conviction or adjudication of delinquency for any offense included in this paragraph, the Clerk of the Court or other person designated by the Court shall forthwith report such conviction or adjudication of delinquency to the Division of Motor Vehicles for action pursuant to the provisions of this paragraph.

(10) Person, other than those persons covered by paragraphs (b)(8) and (9) of this section, who has been convicted of or pleads guilty to any of the offenses listed in paragraph (b)(9)a., b., c. or d. of this section, including a conviction or guilty plea pursuant to § 4767 of Title 16 and qualifying for first offender election under § 4177B of this title, or who has been adjudicated delinquent as a result of acts which would constitute such an offense if committed by an adult, for a period of 6 months after the individual otherwise would have been eligible to have a driver's license issued if the individual does not have a driver's license or reinstated if the driver's license of the person has been suspended at the time the person is so convicted.

(11) Person who is the subject of an outstanding capias or bench warrant issued by the Family Court for failure to appear at any paternity or child support proceeding, or with respect to whom the Department has received notification from the Family Court as provided in § 516(g) of Title 13, or notice from the Director of the Division of Child Support Services as provided in § 2216 of Title 13 regarding the denial or suspension of a license because of such person's child support delinquency.

(12) Person who has been expelled from a public school, where the Department has been notified by the school of such expulsion, until the expelled person presents such proof to the Department as the Department may require that such person complies with one of the requirements set forth in § 4130(e)(2) of Title 14.

(13) Person deemed "not eligible" by a Family Court Judge or Commissioner pursuant to entry into the Family Court Adjudicated Juvenile Drug Court Program until a further order of the Court permitting licensing.

(36 Del. Laws, c. 10 § 54; Code 1935 § 5592; 41 Del. Laws, c. 228 § 1; 43 Del. Laws, c. 246; 45 Del. Laws, c. 289; 21 Del. C. 1953 § 2706; 49 Del. Laws, c. 57 § 1; 55 Del. Laws, c. 361 §§ 1, 2; 56 Del. Laws, c. 390 § 1; 59 Del. Laws, c. 307 § 3; 59 Del. Laws, c. 327 § 1; 62 Del. Laws, c. 237 §§ 12-15; 64 Del. Laws, c. 183 § 1; 67 Del. Laws, c. 108 § 1; 67 Del. Laws, c. 157 § 3; 67 Del. Laws, c. 429 §§ 1, 2; 69 Del. Laws, c. 125 § 1; 70 Del. Laws, c. 18 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 452 § 3; 70 Del. Laws, c. 471 §§ 1, 2; 71 Del. Laws, c. 107 § 1; 71 Del. Laws, c. 216 § 82; 71 Del. Laws, c. 272 § 3; 72 Del. Laws, c. 57 § 1; 72 Del. Laws, c. 477 § 2; 73 Del. Laws, c. 34 § 3; 73 Del. Laws, c. 408 § 2; 74 Del. Laws, c. 135 § 4; 78 Del. Laws, c. 13 § 69; 78 Del. Laws, c. 179 § 270; 79 Del. Laws, c. 371 §§ 17, 18; 80 Del. Laws, c. 234 § 21.)

## § 2708 School bus driver's qualifications.

(a) No person shall drive, nor shall any contractor or public, parochial or private school, permit any person to drive a school bus within the State unless such driver has qualified for a commercial driver's license (CDL) under Chapter 26 of this title, and a school bus endorsement under this chapter, and other pertinent rules and regulations of the Department. Furthermore, except when in possession of a CDL permit and undergoing training or evaluation and accompanied by a certified Delaware School Bus Driver Trainer, school bus drivers shall at all times, while operating or in control of a school bus have in their immediate possession the following:

(1) A properly endorsed and classified Delaware CDL license, with a P (passenger) and S (school bus) endorsement. In exceptional circumstances, the Department of Education may request that the Department issue a 45-day temporary S endorsement to allow a driver to drive upon completion of all requirements except the 12 hours of classroom training. Out-of-state school bus drivers shall comply with § 2709 of this title.

(2) A physical examination certification indicating a valid and approved Department of Education physical exam completed within the last year.

(b) To qualify for an S (school bus) endorsement an applicant must meet all the following requirements:

(1) Be at least 18 years of age with 1 year of driving experience.

(2) Have qualified for a CDL license with P (passenger) endorsement.

(3) Show completion of a course of training with specific course content as determined by the Department of Education and including the knowledge specified in 49 C.F.R. § 383.123(a)(2).

(4) Pass a road test in a school bus administered by the Department and until September 30, 2005, has otherwise met the conditions of 49 C.F.R. § 383.123(b).

(5) Not have more than 5 points on the applicant's 3-year driving record at the time of application.

(6) Not have had the applicant's license suspended, revoked or disqualified in this State or any other jurisdiction for moving violations in the last 5 years.

(7) Never have been convicted of any of the following crimes under the laws of this State or of any other jurisdiction:

a. Any crime constituting the manufacture, delivery or possession of a controlled substance or a counterfeit controlled substance classified as such in Schedule I, II, III, IV or V of Chapter 47 of Title 16;

b. Any crime against a child;

c. Any crime constituting a class A or B felony;

d. Any crime constituting a felony homicide, including, but not limited to, murder, manslaughter and vehicular homicide;

e. Any crime constituting a felony sexual offense;

f. Any crime constituting a felony offense against public administration involving bribery, improper influence or abuse of office; or

g. Any crime, other than those listed in this paragraph, constituting a felony for which the person has not been pardoned or for which less than 5 years have passed since the person fully discharged all imposed sentences. As used herein, the term "sentence" includes, but is not limited to, all periods of modification of a sentence, probation, parole or suspension, and all forms of fines, restitution or community service.

(8) Submit to a drug test, to be administered pursuant to the rules and regulations of the Department of Education, the results of which must be negative for controlled substances as defined by 49 U.S.C. § 31306 and the implementing regulations issued by the Secretary of Transportation pursuant thereto unless the controlled substances have been ingested pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice. Anyone testing positive to the drug test required in this paragraph shall have the right to request and pay for further analysis of their split sample, pursuant to the rules and regulations of the Department of Education, to determine whether the result was a false positive or the controlled substance was ingested pursuant to a valid prescription or order of a practitioner wile acting in the course of the practitioner's practice. Refusal to submit to testing, which shall include the provision of a substituted or adulterated test sample, shall be deemed to be a positive test result under this subsection.

(c) Any time a license with a school bus endorsement is suspended, revoked or disqualified for moving violations, or the driver exceeds 8 points for moving violations, the school bus endorsement shall become invalid, and the endorsement shall be removed from the license.

(d) Renewal of the school bus endorsement shall be as required for other licenses.

(e) The Department shall provide school bus driver records at no charge to the Department of Education or to companies contracted to the Department of Education for school bus services.

(f) The Department shall conduct a criminal history background check for the purposes of issuing an S endorsement pursuant to this section. This check shall include a national criminal history background check, in addition to a review of the applicant's Delaware-based criminal history, a fingerprinting of applicants who are to be subjected to a national criminal history background check, and expressly authorizes the use of records of the Federal Bureau of Investigation for screening the applicants.

(36 Del. Laws, c. 10 § 55; Code 1935 § 5593; 21 Del. C. 1953 § 2707; 53 Del. Laws, c. 112; 56 Del. Laws, c. 400 § 1; 57 Del. Laws, c. 318; 57 Del. Laws, c. 670 § 11C; 58 Del. Laws, c. 160; 58 Del. Laws, c. 197; 58 Del. Laws, c. 511 § 43; 60 Del. Laws, c. 394 § 1; 62 Del. Laws, c. 237 §§ 16, 17; 65 Del. Laws, c. 464 §§ 1-3; 66 Del. Laws, c. 341 § 1; 67 Del. Laws, c. 75 § 1; 67 Del. Laws, c. 157 § 4; 67 Del. Laws, c. 378 §§ 1, 2; 68 Del. Laws, c. 192 § 1; 69 Del. Laws, c. 87 § 1; 69 Del. Laws, c. 236 § 1; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 65 §§ 21-23; 73 Del. Laws, c. 205 §§ 1-3; 73 Del. Laws, c. 252 § 9; 73 Del. Laws, c. 406 §§ 2, 3; 74 Del. Laws, c. 217 §§ 14, 15; 77 Del. Laws, c. 311 § 8; 77 Del. Laws, c. 312 § 2; 78 Del. Laws, c. 19 § 1; 79 Del. Laws, c. 214 § 13; 79 Del. Laws, c. 279 § 7; 80 Del. Laws, c. 275 § 1.)

## § 2709 Out-of-state school bus drivers; qualifications.

(a) Out-of-state school bus drivers shall meet the requirements of their home state for driving a school bus and supplemental Delaware Department of Education training as determined by the Department of Education.

(b) Out-of-state school bus drivers shall provide a Delaware Department of Education physical examination certification indicating a valid and approved Delaware Department of Education physical exam completed within the last year.

(c) Out-of-state school bus drivers shall upon first employment provide to their supervisor a current copy of their home state driving record. The driver's supervisors shall maintain on file a current copy of their state driving record. These records will be annually reviewed using the same qualification criteria as found in § 2708 of this title.

(1) An out-of-state school bus driver shall:

a. Upon first employment, and thereafter annually, provide to the bus driver's supervisor a current copy of the bus driver's home state driving record;

b. Inform the bus driver's supervisor any time the bus driver's license is suspended or revoked.

(2) The supervisor of an out-of-state school bus driver shall:

a. Maintain on file a current copy of the driver's driving records; and

b. Annually update and review the driver's driving records using the same qualification criteria as found in § 2708 of this title.

(21 Del. C. 1953 § 2707A; 58 Del. Laws, c. 197; 62 Del. Laws, c. 237 § 18; 67 Del. Laws, c. 157 § 5; 69 Del. Laws, c. 75 § 1; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 65 §§ 24, 25; 73 Del. Laws, c. 205 §§ 4, 5.)

## § 2710 Issuance of a Level 1 Learner's Permit and Class D operator's license to persons under 18 years of age.

(a) The Division, upon receiving from any person who is at least 16 years old but less than 18 years old or a person who is receiving

special education services under an active Individualized Education Program who is at least 16 years old but less than 22 years old, an application for a Level 1 Learner's Permit, together with the fee required by law, may, in its discretion, issue such a permit entitling the applicant, with such a permit in the applicant's immediate possession, to drive a motor vehicle upon the highways of this State provided they meet all requirements for the permit. Eye screening and medical examinations will be required in accordance with Division policies.

The Division may issue a distinctively designed Level 1 Learner's Permit document or issue the permit holder a Class D license encased in a packet which explains the driver's limited driving privileges. If the permit holder completes the 12-month driving experience and the sponsor does not withdraw their endorsement, the Division will notify the permit holder by mail that the permit holder is eligible for a Class D license. The time used to compute the 12 months of driving experience shall not include any period of time when the permit holder's driving privileges were suspended, revoked, canceled, denied or surrendered.

(b) Level 1 Learner's Permit. — A person who is at least 16 years old but less than 18 years old, or a person who is receiving special education services under an active Individualized Education Program who is at least 16 years old but less than 22 years old, may obtain a Level 1 Learner's Permit if the person has:

(1) Successfully completed a course in driver education in a public or private high school in this State, which has been approved by the Department of Education and meets the standards for such courses described by that Department. If the applicant has completed a course of instruction in driver education in a public or private high school outside this State, the applicant must produce a certified copy of that applicant's high school transcript evidencing the completion of the driver education course;

(2) Passed a written test and road skills test administered by the Division or administered by a driver education teacher. Students who require specialized evaluation, training or equipment to operate a motor vehicle because they are persons with a physical or mental disability will be identified by the driver education teacher and tested by the Division;

(3) Been certified by the driver education teacher as qualified for licensing; and

(4) Submitted an application signed by a sponsor as required by subsection (e) of this section.

(c) Restrictions pertaining to the Level 1 Learner's Permit. — A learner's permit authorizes the permit holder to drive the specified type or class of motor vehicles as those defined under § 2702(d)(1) of this title for 12 months only under the conditions listed below. If the learner's permit expires, the applicant will pay the appropriate fees and pass a written and road skills examination conducted by the Division.

(1) The Level 1 Learner's Permit must be in possession of the permit holder.

(2) When the permit holder is under mandatory supervision, the permit holder must be supervised by a properly licensed parent, guardian or a licensed driver at least 25 years of age who has held a Class D license for at least 5 years. The supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.

(3) For the first 6 months after issuance, the permit holder may only drive supervised. In order for the permit holder to be able to drive unsupervised as called for in paragraph (c)(4) of this section, a parent or guardian shall certify that the permit holder has completed 50 hours of driving time, which shall include 10 hours of nighttime driving. This certification form shall be developed by the Division of Motor Vehicles, Department of Education and Department of Highway Safety and shall be signed by the parent or guardian and submitted to a Department of Education approved program at the end of this 6-month period.

(4) After the first 6 months from issuance, the permit holder may drive unsupervised between the hours of 6:00 a.m. and 10:00 p.m. Such a permit holder may drive only with supervision from 10:00 p.m. to 6:00 a.m. with the exception of times when the permit holder is traveling to and from church activities, work activities and the permit holder's school. For purposes of this section, the term "school" shall not include school-related activities that do not take place on school property.

(5) No passengers other than the adult supervisor and 1 or fewer other passengers can be in the vehicle during the first 12 months. However, the passenger restrictions of this paragraph shall not apply to immediate members of the driver's family provided the adult supervisor is in the car. During the second 6-month period of unsupervised driving, when a supervisor is not present, only 1 other passenger in addition to the driver can be in the vehicle.

(6) The restrictions of paragraph (c)(4) of this section shall not apply to those individuals who are Delaware volunteer fire fighters and ambulance attendants as long as they have permission from their fire chief or ambulance captain in writing with the permit referenced in paragraph (c)(1) of this section and are returning home from their company stations or place of education or training relating to their respective duties for the sole purpose of either an emergency response, an official fire or ambulatory meeting, or education or training relating to said duties.

(7) The permit holder and all passengers, under the age of 18, in the vehicle must wear a seat belt or be secured in a child safety seat or booster seat as required by § 4802 or § 4803 of this title when the vehicle is in motion.

(8) The permit holder shall not operate a motor vehicle while using a cellular telephone, text messager, or substantially similar electronic device. This paragraph shall not apply if the permit holder has stopped the vehicle at a location off of the lanes of travel. Any permit holder found to be in violation of this paragraph is deemed to be operating the vehicle in a negligent manner and is subject to the penalties set forth in subsection (j) of this section.

(d) Class D license qualifications. — A person who is at least 17 years old but less than 18 years old, or who is at least 17 years old but less than 22 years old and receiving special education services under an active Individual Education Program (IEP), may obtain a Class D

operator's license if the person meets the following requirements:

(1) The person has held a Level 1 Learner's Permit issued by the Division for at least 12 months; and

(2) The person has an application signed by a sponsor as specified in subsection (e) of this section. The sponsor's signature on the Level 1 Learner's Permit application authorizes the minor to obtain the Class D operator's license when eligible unless the sponsor withdraws, in writing, their authorization for any such license or permit.

(e) The Division shall not grant the application of any minor between the ages of 16 years and 18 years or a person receiving special education services under an active Individual Education Program (IEP) between the ages of 16 and 22 for an operator's license or Level 1 Learner's Permit unless such application is signed both by the applicant and a sponsor who is the applicant's parent, guardian, Division of Family Services case worker or court-ordered custodian who resides in this State.

(1) Nevertheless, if the applicant has no parent, guardian, Division of Family Services case worker or court-ordered custodian residing in the State to act as the applicant's sponsor, another responsible adult person acceptable to the Secretary of Transportation who resides with the applicant in this State may sign the application.

(2) The following sponsors are listed in order of preference:

a. Father or mother of the minor if both parents are living together within this State and the minor resides with both parents.

b. Father of the minor, if the father is living within this State, and the minor resides with the father only; mother of the minor, if the mother is living within this State, and the minor resides with the mother only; or father or mother, if the father or mother live within this State, and the minor resides with neither parent, and the minor has no legal guardian within this State;

c. Guardian, Division of Family Services case worker or court-ordered custodian of the minor, duly appointed, as such, under the laws of this State; or

d. Any suitable person acceptable to the Secretary of Transportation.

(3) The Department shall not require as a prerequisite to the issuance of a license to a minor under this section, that the father, mother, guardian, Division of Family Services case worker or court-ordered custodian who signs the minor's driver license application be present at the time the application is made by minor or sign the application at the offices of the Division of Motor Vehicle. The signing of the application and acknowledgment thereof, by the parent, guardian, Division of Family Services case worker or court-ordered custodian before a notary public or other person authorized to administer oaths shall be deemed sufficient to satisfy the requirements of this section. However, sponsors designated in paragraph (e)(2)d. of this section shall sign the minor's license application in the presence of a Division representative.

(4) The sponsor who signs the driver's license application on behalf of a minor has final authority to determine if the minor is capable of handling the responsibility of operating a motor vehicle and authority to designate who can supervise the minor driver per paragraph (c)(2) of this section. The sponsor who signed the application on behalf of the minor can withdraw their endorsement at any time until the minor reaches age 18, thereby canceling the minor's driving authority regardless of the type of permit or license held. If the court terminates the custody order and the minor subsequently resides with a parent in this State, then the parent may cancel the driving privileges of the minor under this section. To reinstate the canceled driving privileges, an approved sponsor must sign the application on behalf of the minor. When the minor turns 18, they can reinstate their previously held driving privileges without a sponsor's signature. The applicant can reinstate the driving privileges of a canceled license when they meet the license requirements and pay the appropriate license fee.

(5) It shall be unlawful for any person to sign the application of a minor under the provisions of this section when such application misstates the age of the minor or misrepresents the sponsor's relationship to the minor. Any person who violates this provision shall be guilty of a class B misdemeanor, and both the minor applicant and the sponsor's driving privileges shall be suspended for 2 months per § 2733(a)(5) of this title.

(6) It is unlawful for a sponsor to knowingly allow the holder of a Level 1 Learner's Permit to drive in violation of paragraph (c)(2) of this section. A sponsor who violates this provision is guilty of an unclassified misdemeanor.

(f) Out-of-state driver license transfer. — A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has a driver's license issued by that state, and who becomes a resident of this State may obtain Delaware driving authority under the following conditions:

(1) If the applicant was issued the out-of-state driver's license for less than 12 months, they are eligible to apply for a Level 1 Learner's Permit when meeting the requirements under subsection (b) of this section and successfully completing a driver education training program approved by the Delaware Department of Education.

(2) If the applicant was issued the out-of-state driver's license for over 12 months, and has successfully completed a driver education training program approved by the Delaware Department of Education, that applicant is eligible to apply for a Class D operator's license after meeting the requirements of subsection (e) of this section. Additionally, such a minor applicant must pass a written and road skills examination conducted by the Division.

(3) If the applicant holds an out-of-state driver's license and that applicant is over 18 years old, that applicant can apply for a Delaware Class D operator's license under §§ 2712 and 2713 of this title.

(g) Duration and fees. — A Level 1 Learner's Permit expires 12 months after the date of issuance. If the applicant's learner's permit expires, the permit shall be void. The permit can be reissued when the applicant meets the permit requirements. The applicant must pay the

$40 Class D license fee at the time of initial application.

(h) It is unlawful for the holder of a Level 1 Learner's Permit to operate a motor vehicle in violation of the restrictions that apply to the Level 1 Learner's Permit. Failure to comply with these restrictions constitutes operating a motor vehicle without a license under § 2701(a) of this title.

(i) The Division shall not issue an operator's license or Level 1 Learner's Permit to a person who has not reached the person's eighteenth birthday at the time of the offense if the person has been adjudicated delinquent as a result of acts which would constitute such an offense if committed by an adult as set forth in § 2732(a) of this title.

(j) The Department may immediately suspend a minor's permit, license and/or driving privileges whenever the Department has reason to believe that such person is a reckless or negligent driver of a motor vehicle or has committed a serious moving traffic violation. The Secretary may promulgate policy regulations more stringent than those that apply to other drivers when suspending minors. The suspension period will be for l month for the first suspension and 3 months for subsequent suspensions under this subsection. No suspension under this section shall be used by a motor vehicle insurance company licensed to sell insurance in this State as a basis for canceling a policy of insurance or to raise the premium cost to the insured.

(k) Driver education learner's permit. — The Division, upon receiving proper notice that a person is currently enrolled in a driver's education course and successfully completed the minimum class hours of actual driving experience and in-the-car observation as approved by the Department of Education, may issue a driver education learner's permit to such person after the person's sixteenth birthday, or before the person's twenty-second birthday if the person is enrolled in an active Individualized Education Program, provided the person meets all other Division requirements. The Division may issue a driver education learner's permit to those who meet the requirements of this section and need supervised driving experience before completing the road skill s test. The full driver license fee shall be collected at the time of the application. The permit is valid for 4 months. If for any reason whatsoever the applicant fails to pass the required examinations during the 4-month period granted by the permit, the permit shall be void and the driver license fee shall be forfeited. The application must be signed by the sponsor pursuant to subsection (e) of this section.

(1) Any person issued a driver education learner's permit pursuant to this subsection is entitled to drive a motor vehicle described in § 2702(d)(1) of this title upon the highways only when supervised by a properly licensed parent or guardian. If the parent(s) or guardian(s) is (are) not licensed to operate a motor vehicle or the permit holder is in the custody of the Department of Services for Children, Youth and their Families, the holder of the driver education learner's permit must be supervised by a licensed driver who is 25 years of age or older and have held a Class D driver's license for at least 5 years. The supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.

(2) The driver education learner's permit must be in the possession of the permit holder.

(3) No passengers other than the adult supervisor and 1 or fewer other passengers can be in the vehicle. However, this passenger limit does not apply to members of the driver's immediate family.

(4) Driving experience obtained while holding this permit will be counted towards and in conjunction with the driving experience restrictions contained in paragraph (c)(3) of this section.

(5) The permit holder shall not operate a motor vehicle while using a cellular telephone, text messager, or substantially similar electronic device. This paragraph shall not apply if the permit holder has stopped the vehicle at a location off of the lanes of travel. Any permit holder found to be in violation of this paragraph is deemed to be operating the vehicle in a negligent manner and is subject to the penalties set forth in subsection (j) of this section.

(36 Del. Laws, c. 10 § 56; 37 Del. Laws, c. 10 § 17; Code 1935 § 5594; 41 Del. Laws, c. 228 § 2; 44 Del. Laws, c. 192; 45 Del. Laws, c. 285; 21 Del. C. 1953 § 2708; 50 Del. Laws, c. 262 § 1; 53 Del. Laws, c. 221 § 20; 56 Del. Laws, c. 390 § 2; 58 Del. Laws, c. 511 § 44; 59 Del. Laws, c. 327 § 2; 62 Del. Laws, c. 156 § 1; 62 Del. Laws, c. 237 § 19; 64 Del. Laws, c. 355 § 1; 65 Del. Laws, c. 77 §§ 1, 2; 67 Del. Laws, c. 25 §§ 1, 2; 69 Del. Laws, c. 327 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 282 § 1; 72 Del. Laws, c. 344 §§ 1, 2; 72 Del. Laws, c. 477 §§ 1, 3, 4; 73 Del. Laws, c. 42 § 1; 74 Del. Laws, c. 110 §§ 56, 57; 74 Del. Laws, c. 324 § 1; 75 Del. Laws, c. 15 §§ 1, 2; 75 Del. Laws, c. 377 §§ 1-3; 76 Del. Laws, c. 76 § 21; 76 Del. Laws, c. 260 §§ 5, 6; 76 Del. Laws, c. 293 § 1; 76 Del. Laws, c. 415 §§ 1-5; 78 Del. Laws, c. 8 § 8; 79 Del. Laws, c. 371 § 19; 80 Del. Laws, c. 193 §§ 1-5.)

## § 2711 Application for license.

(a) Every application for an operator's license shall be made on an application form furnished by the Department. The original application shall be verified by the applicant before a person authorized to administer oaths.

(b) Every application shall state the name, social security number, if eligible, date of birth, sex and residence address of the applicant and whether or not the applicant has previously been licensed as an operator, and, if so, when and by what state and whether or not such license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation.

(c) Regardless of the age of the applicant, the Division shall require documentary evidence satisfactory to the Division of the applicant's name, date of birth, legal presence in the United States, Social Security number (if eligible), sex, and Delaware residence address.

(d) Any applicant who is able to provide satisfactory documentary evidence of all information described in subsection (c) of this section except for legal presence in the United States, may be eligible for a class D license or a class D temporary instruction permit valid for driving privileges only, hereinafter referred to as a driving privilege card or permit. Federal law prohibits any person from being eligible for a commercial driver license without providing satisfactory documentary evidence of legal presence in the United States.

(1) A driving privilege card or permit applicant must also provide the Division with satisfactory documentary evidence that the

applicant, for each of the preceding 2 years, has:

a. Filed a Delaware income tax return; or

b. Resided in Delaware and been claimed as a dependent by an individual who has filed a Delaware income tax return.

(2) A driving privilege card or permit applicant must have completed the procedures required under § 8595 of Title 11.

(3) A driving privilege card or permit shall not be considered a valid form of identification for any purpose.

(4) Every applicant for or holder of a driving privilege card or permit under this section shall be subject to all of the provisions of this and any other title that apply to applicants and holders of class D driver licenses, class D temporary instruction permits, and level 1 learner permits.

(5) Notwithstanding any provision to the contrary, to ensure the public trust of the Delaware undocumented population that will utilize the driving privilege card for its intended purposes, all personal identifiable information collected during the application process shall be kept confidential, except in connection with purposes or procedures that would equally apply to applicants under subsection (c) of this section.

(e)(1) Any male applicant who applies for an instruction permit or driver's license or a renewal of any such permit or license and who is at least 18 years of age but less than 26 years of age shall be registered in compliance with the requirements of § 3 of the "Military Selective Service Act," 50 U.S.C. App. § 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in this subsection to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that he is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that his signature constitutes consent to registration with the selective service system, if he is not already registered.

(36 Del. Laws, c. 10 § 57; 37 Del. Laws, c. 10 § 15; Code 1935 § 5595; 48 Del. Laws, c. 238 § 1; 21 Del. C. 1953 § 2709; 62 Del. Laws, c. 237 § 20; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 216 § 57; 71 Del. Laws, c. 282 § 2; 72 Del. Laws, c. 335 § 1; 72 Del. Laws, c. 485 § 2; 80 Del. Laws, c. 67 § 1.)

## § 2712 Application for temporary instruction permits and Class D operator's license for persons age 18 or older.

(a) A Class D temporary instruction permit may be issued to a person age 18 years or older. A temporary permit shall entitle the applicant to drive during a 6-month period only when the applicant is accompanied by a licensed operator over the age of 21 who is actually occupying a seat beside the driver and there are no more than 2 other persons in the vehicle.

(b) If for any reason the applicant fails to pass the required examination during the 6-month period granted by the permit, the permit shall be void, and the fee paid therefor shall be forfeited unless the applicant requests an extension thereof and pays the sum of $5.00 therefor. Upon payment of the said sum, the Division shall immediately issue only 1 extension of the permit for an additional 6 months. If the applicant fails to pass the required examination within the additional 6-month period, the permit shall become void.

(c) The applicant must successfully pass a written examination before being issued a temporary instruction permit, and pass a practical road skills examination before being issued a Class D operator's license. Eye screening and medical examinations will be administered in accordance with Division policies.

(d) It is unlawful for the holder of a Class D temporary instruction permit to operate a motor vehicle when the applicant is not accompanied by a licensed operator over the age of 21 years who is seated beside the driver or if there are more than 2 other persons in the vehicle. Failure to comply with subsection (a) of this section restrictions constitutes operating a motor vehicle without a license under § 2701(a) of this title.

(e) Applicants who are receiving special education services under an active Individualized Education Program may waive the provisions of this section and obtain a Class D operator's license if the person meets the requirements of § 2710(d) of this title.

(36 Del. Laws, c. 10 § 58; Code 1935 § 5596; 45 Del. Laws, c. 283 § 1; 46 Del. Laws, c. 125; 21 Del. C. 1953 § 2710; 57 Del. Laws, c. 495 §§ 1, 2; 57 Del. Laws, c. 670 § 11B; 60 Del. Laws, c. 626 § 1; 64 Del. Laws, c. 23 §§ 1-3; 67 Del. Laws, c. 346 § 1; 67 Del. Laws, c. 429 § 4; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 282 § 5; 78 Del. Laws, c. 8 §§ 9-11; 80 Del. Laws, c. 193 § 6.)

## § 2713 Examination of applicants; waiver of examination.

(a) The Department shall examine every applicant for an operator's license before issuing any such license, except as otherwise provided in subsections (b) and (c) of this section. The Department shall examine the applicant as to the applicant's physical and mental disabilities to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to whether any facts exist which would bar the issuance of a license under this chapter. Such examination shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to operate a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter.

(b) The Department may in its discretion waive the examination of any person applying for the renewal of an operator's license issued under this chapter.

(c) The Department may in its discretion issue an operator's license under this chapter without examination to every person applying therefor who is of sufficient age, as required by § 2707 of this title, to receive the license applied for and who at the time of such application has a valid unrevoked license of like nature issued to such person under any previous law of this State providing for the licensing of

operators or to any person who at the time of such application has a valid unrevoked license of like nature issued to such person in another state under a law requiring the licensing and examination of operators.

(d) Written and road skill examinations for students duly enrolled in a driver education course, including students who are receiving special education services under an active Individualized Education Program until the age of 22, will be administered by driver education teachers certified by the Delaware Department of Education. Upon successful completion of the driver education course, the certified teacher must issue a "High School Driver Education Certificate" which will be accepted in lieu of the written and road skill examinations administered by the Division for a period of 6 months from the date of issue. No further testing by the Division is required unless the High School Driver Education Certificate has expired; in such event, full testing is required. Students identified in § 2710(b)(2) of this title as persons with a disability requiring specialized training shal l be examined by the Division. All persons under age 18 who transfer their out-of-state license for a Delaware license must be given a written and road test by the Division. Any person who is suspended while operating a motor vehicle on a Level 1 Learner's Permit, Driver Education Learner's Permit or temporary instruction permit will be re-examined before reinstatement. Notwithstanding the preceding, the Division must administer written and road skills tests to applicants who are 18 years of age or older, except as otherwise provided in subsections (b) and (c) of this section.

(36 Del. Laws, c. 10 § 59; Code 1935 § 5597; 21 Del. C. 1953 § 2711; 62 Del. Laws, c. 237 § 21; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 282 § 10; 74 Del. Laws, c. 18 § 3; 79 Del. Laws, c. 371 § 20; 80 Del. Laws, c. 193 § 7.)

## § 2714 Special examination.

(a) As a prerequisite to the continuation of the operator's right to drive on the highways, the Department shall cause a special examination to be made of every person involved in a second accident resulting in personal injury, death or property damage to an apparent extent of $250 within any 24-month period, when such person has been adjudged responsible for causing such accidents by a court of competent jurisdiction, to determine whether such person is a person with a physical or mental disability which prevents the safe operation of a vehicle.

(b) The Department shall also cause to be examined any person whom the State Police Superintendent, State Police Troop Commanders or chief of police of any city, town or county in this State recommends for such examination.

(c) The Department may examine any person with mental or physical conditions which may interfere with safe operation of a motor vehicle when reported, in writing, to the Department by a physician, member of the immediate family, the court or other person acceptable to the Secretary of Transportation. This examination is to determine the person's physical and mental abilities to operate a motor vehicle in such manner so as not to jeopardize the safety of person or property and whether any facts exist which would bar the continued issuance of a license under this chapter. Such examination shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to operate a motor vehicle safely or other facts declared to be prerequisite to the continued issuance of a license under this chapter. Evaluation requested per subsections (b) and (c) of this section are confidential records used to determine a driver's ability to safely operate a motor vehicle and shall not be released except by court order.

(36 Del. Laws, c. 10 § 59; 37 Del. Laws, c. 13; 40 Del. Laws, c. 38 § 2; Code 1935 § 5597; 21 Del. C. 1953 § 2712; 50 Del. Laws, c. 395 § 1; 67 Del. Laws, c. 94 § 1; 72 Del. Laws, c. 365 § 1; 74 Del. Laws, c. 110 § 58; 79 Del. Laws, c. 371 § 21.)

## § 2715 Driver license renewal cycle; fees; photograph.

(a) Upon receipt of the application and a fee of $40 and after such examination as provided in this chapter, the Secretary may issue, at the Secretary's discretion, a motor vehicle driver's license which shall expire and be renewable on the eighth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the license shall expire and be renewable on February 28 every eighth year. A permanent resident foreign national may be issued a full 8-year driver's license. However, a driver's license issued to a temporary foreign national must be limited to the period of time that the temporary foreign national is authorized to be in the United States.

(b) Upon receipt of the application and a fee of $20 and after such examination as provided in this chapter, the Secretary may issue, at the Secretary's discretion, a driving privilege card issued in accordance with § 2711 of this title, which shall expire and be renewable on the fourth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the driving privilege card shall expire and be renewable on February 28 every fourth year.

(c) On or near the date of expiration of a motor vehicle driver's license, each licensee shall appear at 1 of the Department's offices and be photographed by the Department of Transportation. Upon approval by the Director of the Division of Motor Vehicles, in the Director's discretion, the requirement for this appearance may be waived if circumstances prevent the licensee from appearing on or near the time of renewal.

(d) A late fee of $10 shall be assessed in addition to the renewal fee for every person whose driver's license has expired.

(e) Notwithstanding subsections (a), (b), and (c) of this section, the Secretary may issue driver licenses for less than 8 years until December 12, 2016, so the number of renewals can be more evenly distributed over an 8-year period. If a driver license is issued for less than 8 years pursuant to this section, the fee shall be calculated at $5.00 per year.

(f) Notwithstanding the length of issuance and fees as stated in this subsection, the length of issuance and fees for commercial motor vehicle driver's licenses as required in Chapter 26 of this title shall be as required in § 2611 of this title.

(36 Del. Laws, c. 10 § 57; Code 1935 § 5595; 48 Del. Laws, c. 238 § 2; 21 Del. C. 1953 § 2713; 49 Del. Laws, c. 361 § 1; 57 Del. Laws, c. 218; 57 Del. Laws, c. 670 §§ 11A, 11C; 61 Del. Laws, c. 282 § 1; 65 Del. Laws, c. 77 § 3; 65 Del. Laws, c. 329 § 1; 67 Del. Laws, c.

157 § 6; 67 Del. Laws, c. 260 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 59; 75 Del. Laws, c. 183 § 2; 76 Del. Laws, c. 76 §§ 22, 23; 76 Del. Laws, c. 126 § 1; 78 Del. Laws, c. 8 §§ 12-15; 80 Del. Laws, c. 67 § 2; 80 Del. Laws, c. 77 § 3.)

## § 2716 Permanent license; fees; expiration.

(a) Upon receipt of the application and a fee of $35, and upon proof that such applicant has been licensed by the Department for a period of 3 consecutive years and that such applicant is qualified under this chapter, the Secretary may issue, at the Secretary's discretion, a permanent driver's license which shall not become ineffective until or unless otherwise revoked, canceled or suspended as provided by law or until such license expires.

(b) Each holder of a permanent driver's license shall pay an additional fee of $24 every 8 years to the Department in payment of the cost of a photograph which will be taken by the Department. Nonpayment of this fee by the date indicated shall automatically render the license expired.

(c) A late fee of $10 shall be assessed in addition to the renewal fee for every person whose driver's license has expired.

(d) Effective April 1, 1990, no more permanent licenses as permitted under this section shall be issued to applicants applying for commercial motor vehicle driver licenses pursuant to Chapter 26 of this title.

(e) Effective August 1, 2007, no more permanent licenses shall be issued pursuant to this section, except for renewals of permanent licenses issued prior to that date.

(36 Del. Laws, c. 10 §§ 57, 65; 37 Del. Laws, c. 10 § 16; Code 1935 §§ 5595, 5603; 45 Del. Laws, c. 282 § 1; 45 Del. Laws, c. 288 § 1; 21 Del. C. 1953 § 2714; 49 Del. Laws, c. 361 § 2; 57 Del. Laws, c. 670 § 11A; 57 Del. Laws, c. 720; 58 Del. Laws, c. 79; 58 Del. Laws, c. 511 § 45; 61 Del. Laws, c. 282 § 2; 65 Del. Laws, c. 329 § 2; 67 Del. Laws, c. 157 § 7; 67 Del. Laws, c. 260 § 1; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 76 §§ 24, 25; 78 Del. Laws, c. 8 §§ 16-18; 80 Del. Laws, c. 77 § 4.)

## § 2717 Refusal to issue license; appeal.

The Department, for sufficient reasons, may refuse to issue any form of license or permit to any applicant. Upon such refusal, such applicant may appeal to the Court of Common Pleas of the county in which the applicant resides. An appeal of a denial of a license pursuant to § 516(g) or § 2216 of Title 13 shall be only as provided in Title 13.

(36 Del. Laws, c. 10 § 59; 40 Del. Laws, c. 38 § 3; Code 1935 § 5597; 21 Del. C. 1953 § 2715; 69 Del. Laws, c. 333 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 452 § 4; 71 Del. Laws, c. 216 § 83.)

## § 2718 Information on licenses.

(a) Every license shall bear thereon the distinguishing number assigned to the licensee and shall contain the name, age, residential address and a brief description of the licensee for the purpose of identification and shall have a space for the signature of the licensee. Every license shall also bear thereon a photograph of the licensee. Upon approval by the Director of the Division of Motor Vehicles, in the Director's discretion, the requirement for a photograph may be waived, if circumstances prevent the licensee from appearing on or near the time of renewal. The licensee's Social Security number is used for identification purposes and shall be maintained in the Division of Motor Vehicle's record system. In addition to the information described in this section, a driving privilege card or permit issued in accordance with § 2711 of this title shall be unique in design and bear on its face the phrase "Driving Privilege Only," and the phrase "Not Valid For Identification."

(b) The Division of Motor Vehicles shall provide a method for permitting a person making application for a license or identification card, or for renewal thereof, to have designated thereon that such person is a donor pursuant to subchapter II, Chapter 27 of Title 16, the Uniform Anatomical Gift Act.

(1) Upon such designation, the Division of Motor Vehicles shall in a manner prescribed by the Division make a suitable notation upon the license or identification card indicating that the person is a donor.

(2) The designation shall constitute sufficient legal authority for the removal of a body or part thereof upon the person's death and the designation shall be removed only upon written notice to the Division by the donor.

(3) At the time the donor authorizes the designation to appear on the donor's license or identification card, the donor shall be notified that the designation can be removed only upon written notice to the Division.

(4) For purposes of this section, license shall not include any temporary license.

(c) The Division of Motor Vehicles shall provide a method for permitting a person applying for a license or identification card, or for renewal thereof, to have designated thereon that such person has a medical condition which may require special attention.

(1) Upon such designation, the Division of Motor Vehicles shall in a manner prescribed by the Division make a suitable notation upon the license or identification card indicating that such person has a medical condition which may require special attention.

(2) At the time the licensee authorizes the designation to appear on the licensee's license or identification card, the licensee shall be notified that the designation can be removed only upon written notice to the Division.

(3) For purposes of this subsection, license shall not include any temporary license.

(4) No designation shall be noted upon the license or identification card of any person under 18 years of age unless written permission of the parents or guardian is granted.

(5) For the purposes of this subsection "medical condition" shall include the execution of a pre-hospital advanced care directive pursuant to § 9706(h) of Title 16.

(d) A driver's license applicant or holder of a driver's license shall provide the Division with the applicant's or holder's social security number if eligible. This shall take place at the time of renewal of such driver's license or at the time a new license is issued to the applicant for any reason.

(e) If an applicant is required to register as a sex offender pursuant to § 4120 of Title 11, as amended, for a felony conviction the sentencing court shall take possession of the driver's license and shall tender to the person being sentenced a temporary license, directing that the person report to the Division of Motor Vehicle for a replacement driver's license with the following code under restrictions: Y indicating sex offender. The person shall tender to the Division of Motor Vehicle a fee of $5.00 for the replacement license. Upon a person being removed from the registration requirement, the Division of Motor Vehicle shall issue a license without the sex offender code printed upon the license at no charge. The sentencing court shall forward to the Division all licenses that it receives, along with a copy of the sentencing order.

(f) Failure to comply with subsection (e) of this section within 30 days of a qualifying felony conviction pursuant to § 4120 of Title 11 will result in the suspension of driving privileges by the Division of Motor Vehicles.

(36 Del. Laws, c. 10 § 62; Code 1935 § 5600; 21 Del. C. 1953 § 2716; 60 Del. Laws, c. 344 § 1; 62 Del. Laws, c. 237 § 22; 64 Del. Laws, c. 286 § 1; 65 Del. Laws, c. 77 § 4; 67 Del. Laws, c. 157 § 8; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 133 §§ 1, 2; 71 Del. Laws, c. 261 § 1; 71 Del. Laws, c. 453 § 11; 72 Del. Laws, c. 32 § 1; 72 Del. Laws, c. 335 §§ 2, 6; 75 Del. Laws, c. 185 §§ 1, 2; 75 Del. Laws, c. 194 § 2; 77 Del. Laws, c. 182 § 1; 80 Del. Laws, c. 67 § 3.)

## § 2719 Records.

The Department shall file every application for an operator's license and index the application by name and number and maintain suitable records of all licenses issued and all applications for licenses denied, as well as a record of all licenses which have been suspended or revoked.

(36 Del. Laws, c. 10 § 61; Code 1935 § 5599; 21 Del. C. 1953 § 2717; 62 Del. Laws, c. 237 § 23.)

## § 2720 Duplicate licenses; requirements; fee.

(a) In the event that any operator's license issued under this chapter is lost or destroyed the person to whom it was issued may apply to the Department for the issuance of a duplicate or substitute license upon executing such forms as may be required by the Department and upon furnishing proof satisfactory to the Department that such license has been lost or destroyed.

(b) Upon receipt of the application and the required fee, the Secretary of Transportation of this State may, at the Secretary's discretion, require an examination of such applicant in accordance with this chapter.

(c) Each application for the issuance of a duplicate license certificate shall be accompanied by a fee of $20.

(36 Del. Laws, c. 10 § 63; Code 1935 § 5601; 45 Del. Laws, c. 284; 21 Del. C. 1953 § 2718; 53 Del. Laws, c. 221 § 21; 57 Del. Laws, c. 670 § 11B; 62 Del. Laws, c. 237 § 24; 63 Del. Laws, c. 440 § 1; 67 Del. Laws, c. 157 § 9; 67 Del. Laws, c. 260 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 60; 80 Del. Laws, c. 77 § 9.)

## § 2721 Duty to sign and carry license.

(a) Every person licensed as an operator shall write the person's usual signature with pen and ink in the spaces provided for that purpose on the license certificate and such license shall not be valid until the certificate is so signed.

(b) The licensee shall have such license in the licensee's immediate possession at all times when driving a motor vehicle and shall display the same upon demand of a uniformed police officer, justice of the peace, peace officer or motor vehicle inspector. It shall be a defense to any charge under this subsection if the person so charged produces in court an operator's license theretofore issued to such person and valid at the time of the arrest.

(36 Del. Laws, c. 10 § 64; Code 1935 § 5602; 46 Del. Laws, c. 64; 21 Del. C. 1953 § 2719; 62 Del. Laws, c. 237 § 25; 70 Del. Laws, c. 186 § 1.)

## § 2722 Restricted licenses based on driver's physical limitations.

(a) The Department upon issuing an operator's license may, whenever good cause appears, impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee's driving ability arising out of or caused by the licensee's physical defects or infirmities as the Department determines to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The Department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(c) The Department may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this title.

(d) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to that person.

(Code 1935 § 5589A; 48 Del. Laws, c. 286; 21 Del. C. 1953 § 2720; 62 Del. Laws, c. 237 § 26; 70 Del. Laws, c. 186 § 1.)

## § 2723 Medical Advisory Board.

(a) There shall be a Medical Advisory Board consisting of a minimum of 3 members nominated by the President of the Medical Council of Delaware or the Chairperson of the Board and appointed by the Secretary. The Chairperson of the Board shall be the Medical Director of

the Division of Public Health. The Board shall consult an ophthalmologist and an optometrist in all cases where a vision problem exists. The ophthalmological consultant shall be nominated by the President of the Medical Council of Delaware or the Chairperson of the Board, and the optometric consultant shall be nominated by the President of the Delaware Optometric Association or the Chairperson of the Board. Both vision consultants shall be appointed by the Secretary.

(b) The Board shall advise the Secretary on medical criteria and vision standards relating to the licensing of drivers under this chapter.

(c) The identities of the members of the Board and its vision consultants shall be kept confidential. To maintain confidential their identities, they shall not be required to appear in court. If the qualifications of the members or consultants are challenged in court, the Secretary shall give the court brief professional biographies outlining the training and experience of each member and of each vision consultant.

(d) Reports received or made by the Board, or its members, or its vision consultants for the purpose of assisting the Secretary in determining whether a person is qualified to be licensed are for the confidential use of the Board or the Secretary and may not be divulged to any person or used as evidence in any trial except that the reports may be admitted in proceedings under §§ 2717 and 2734 of this title.

(e) Members of the Board and its vision consultants shall receive compensation in the amount of $40 per meeting attended.

(21 Del. C. 1953 § 2721; 57 Del. Laws, c. 366 § 1; 57 Del. Laws, c. 558 §§ 1, 5-8; 70 Del. Laws, c. 147 § 27; 70 Del. Laws, c. 186 § 1; 79 Del. Laws, c. 29 § 1.)

## § 2724 Medical evaluation of drivers; suspension; review.

(a) Upon the determination of the Secretary that a licensed driver or applicant for a license may not be physically, visually or mentally qualified to be licensed, the Secretary will mail to the licensed driver or applicant for a license a registered letter with return receipt requested stating the need for a medical or optometric evaluation along with instructions. Attached to this letter will be a physical or visual examination report. The individual so notified shall be required within 30 days from the date of notification to have this report completed. The individual so notified shall make arrangements to be examined by a private physician or private optometrist of the individual's choice at the individual's expense, or, if it is determined by the Secretary that the individual is unable to pay for this examination, the Secretary shall arrange with a deputy health officer of the State to have this examination performed. The completed report shall be forwarded by the examining physician or optometrist to the Secretary.

(b) If this report is not received within the 30 days or if a reasonable explanation for the delay is not received, the Secretary shall notify the individual that the individual's driving privilege has been suspended until such report is received and evaluated. Upon receipt of the completed report, the Secretary shall forward this report to the Secretary of the Department of Health and Social Services for review.

(c) The Secretary of the Department of Health and Social Services shall review the report to determine if the case warrants evaluation by the Medical Advisory Board. If the report gives no medical or optometric information indicating impairment of any degree, the report shall be returned to the Secretary with the indication that there is no apparent need for action based on medical impairment. If the information in the medical or optometric report warrants review by the Board, a copy of the report shall be forwarded to each member of the Board for evaluation. In case of a vision problem the report shall also be forwarded to the optometric and ophthalmological consultants.

(d) After review, each member of the Medical Advisory Board and the vision consultants shall report their recommendations to the Secretary. The members of the Board and the vision consultants shall not meet as a group unless such a meeting is called by the Chairperson, but rather each member and consultant shall arrive at an opinion independently and shall inform the Secretary of the member's or consultant's recommendations. These recommendations may involve any of the following by way of illustration but not of limitation:

(1) No action against driver or applicant;
(2) Periodic medical or optometric evaluation;
(3) Specific license restrictions;
(4) Further medical or optometric evaluation;
(5) Driver improvement activity, including retesting;
(6) License suspension.

(e) The Secretary shall make the final decision on whether the driver or applicant for a license should be licensed, refused, issued a restricted license or have the license suspended.

(f) Upon the decision of the Secretary, the Department shall notify the driver or applicant and shall afford the driver or applicant an opportunity of a hearing before the Department in the county where the driver or applicant resides. Upon such hearing, the Secretary may rescind the order upon a showing of good cause.

(g) Members of the Board and vision consultants and other persons making or evaluating examinations shall not be held liable for their opinions and recommendations.

(21 Del. C. 1953 § 2721A; 57 Del. Laws, c. 366 § 1; 57 Del. Laws, c. 558 §§ 2-4; 70 Del. Laws, c. 149 §§ 206, 207; 70 Del. Laws, c. 186 § 1.)

## § 2725 Standards.

The Secretary shall have the authority to promulgate standards which may be applied by the Medical Advisory Board. Such standards shall also apply to the final determination of the Secretary upon the physical, visual or mental abilities of a driver or applicant.

(21 Del. C. 1953 § 2722; 57 Del. Laws, c. 366 § 2; 79 Del. Laws, c. 371 § 22.)

## § 2726 Motorcycle rider education program — Established.

(a) The Department of Transportation shall implement a motorcycle rider education program meeting the requirements of this section and § 2727 of this title and any rules or regulations promulgated by the Department.

(b) Adequate courses shall be provided to meet the reasonably anticipated needs of all persons in the State who are eligible and who desire to participate in such a program.

(c) Courses shall be open to all residents of the State who either hold a current valid driver's license or who are eligible for a motorcycle learner's permit. The course shall be open to all persons in the military service stationed in Delaware and their families.

(d) State assisted or private instructional services may offer courses in motorcycle rider education; provided, however, such course offerings meet the requirements of this section and § 2727 of this title. Such course offerings by State assisted or private instructional services may be reimbursed under this section and § 2727 of this title. The Secretary may also enter into contracts for needed services related to the courses.

(e) The Department of Transportation shall adopt the Motorcycle Safety Foundation Motorcycle Rider Course curricula or establish other equivalent minimum course requirements, designed to develop and instill the knowledge, attitudes, habits and skills necessary for the safe operation of a motorcycle.

(f) The Department shall adopt rules and regulations which are necessary to carry out the provisions of the motor rider education program.

(g) For any person who successfully completes the motorcycle rider education program, the Department's motorcycle written examination and road test shall be waived.

(h) The total budget for the motorcycle rider education program shall be based on the revenue available or estimated to be available in the special account established for the motorcycle rider education program.

(65 Del. Laws, c. 27 § 1; 74 Del. Laws, c. 110 §§ 61, 62.)

## § 2727 Motorcycle rider education program — Requirements for instructors.

The Department shall establish minimum requirements for the qualification for a motorcycle rider education instructor. The minimum requirements shall include, but not be limited to, the following:

(1) The instructor shall have a high school diploma or its equivalent.

(2) The instructor must be at least 18 years of age and must hold a valid driver's license and a valid motorcycle endorsement.

(3) The instructor must hold a valid motorcycle endorsement and must have had at least 2 years of motorcycle riding experience.

(4) The instructor's driver's license shall not have been suspended or revoked any time during the immediately preceding 2 years.

(5) The instructor shall have no convictions for driving under the influence of alcohol or drugs during the immediately preceding 5 years nor shall the instructor have been subject to § 4177B of this title during the immediately preceding 5 years.

(6) The instructor shall not have any convictions for moving traffic violations with a total of 4 points during the immediately preceding 2 years.

(7) Instructors who are licensed in other states must furnish certified copies of their driving records to the Division of Motor Vehicles. An applicant shall not be eligible for instructor status until the instructor's driving record for the immediately preceding 5 years is furnished.

(8) The instructor must have a Motorcycle Safety Foundation certification as an instructor.

(65 Del. Laws, c. 27 § 1; 70 Del. Laws, c. 186 § 1.)

# Subchapter II

# Suspension or Revocation

## § 2731 Payment of motor vehicle fines.

(a) Every court and police officer having jurisdiction over offenses committed under any law of this State regulating the operation of motor vehicles on highways shall forward to the Department a record of the conviction of any person in any court for a violation of any of such laws within 30 days of the disposition of the case and may recommend the suspension of the driver's license of the person so convicted. The Department shall thereupon consider and act upon such recommendation in such manner as it deems best.

(b) The clerk or prothonotary of every court shall forward to the Department or its successor, a record of the name and address of each convicted person who shall have been sentenced to pay a fine, costs or both a fine and costs and who has failed to pay at the time sentence was imposed or in accordance with an order of the court. Whenever a convicted person who has not paid a fine, costs or both at the time sentence was imposed shall pay, the clerk or prothonotary shall provide the convicted person with a receipt confirming that the fine, costs or both have been paid so that the receipt may be presented to the Department, or its successor, as notice that the fine, costs or both have been paid.

(c) The voluntary assessment center shall forward to the Department a record of the name and address of each person who has been given a Uniform Traffic Complaint and Summons on which a voluntary assessment was permitted pursuant to § 709 of this title and who has

failed to do any of the following:

(1) Pay the voluntary assessment within 30 days from the date of arrest.

(2) Notify the court or voluntary assessment center with 30 days from the date of arrest, in writing, that the person wishes to have a hearing on the charge stated in the Uniform Traffic Complaint and Summons.

(3) Appear at trial on the charge stated in the Uniform Traffic Complaint and Summons on the date and time required by the court.

(4) Pay the fine on the charge stated in the Uniform Traffic Complaint and Summons in accordance with a deferred payment order.

(36 Del. Laws, c. 10 § 66; Code 1935 § 5604; 21 Del. C. 1953 § 2731; 57 Del. Laws, c. 512 § 1; 65 Del. Laws, c. 77 § 9; 68 Del. Laws, c. 388 § 1; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 458 § 1; 73 Del. Laws, c. 234 § 4; 80 Del. Laws, c. 137 § 3; 80 Del. Laws, c. 201 § 1.)

## § 2732 Payment of motor vehicle fines.

(a) The Department shall forthwith revoke the license or driving privileges or both of any person upon receiving a record of the conviction, or adjudication of delinquency by Family Court for acts which would constitute such an offense if committed by an adult, of such person of any of the following crimes:

(1)a. Upon a conviction of manslaughter, under § 632 of Title 11, if the manslaughter resulted directly from the use of a motor vehicle, or upon conviction of vehicular homicide first degree, pursuant to § 630A of Title 11, the license or driving privileges or both of the person so convicted shall be revoked for a period of 4 years.

b. Upon a conviction of vehicular homicide second degree, pursuant to § 630 of Title 11, or upon a conviction for criminally negligent homicide if the homicide resulted directly from the use of a motor vehicle, the license or driving privileges or both of any person so convicted shall be revoked for a period of 3 years.

(2)a. Upon conviction for assault first degree, pursuant to § 613 of Title 11 or assault second degree, pursuant to § 612 of Title 11, if the assault resulted directly from the use of a motor vehicle or upon a conviction of vehicular assault first degree, pursuant to § 629 of Title 11, the license or driving privileges or both of any person so convicted shall be revoked for a period of 2 years.

b. Upon conviction for vehicular assault second degree, pursuant to § 628A of Title 11, the license or driving privileges or both of any person so convicted shall be revoked for a period of 1 year.

(3) Driving a vehicle while under the influence of intoxicating liquor or narcotic drug; provided that upon successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program the revocation may be rescinded;

(4) Perjury or the making of a false affidavit to the Department under this chapter or any other law of this State requiring the registration of motor vehicles or regulating their operation on highways;

(5) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used;

(6) Conviction or forfeiture of bail upon 3 charges of reckless driving all within the preceding 12 months; but no license shall be revoked by reason of any conviction or convictions upon the charge of overloading any vehicle as provided in § 4502 of this title;

(7) A conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose the driver's identity at the scene of the accident;

(8) A conviction of attempting to flee or elude a police officer after having received a visual or audible signal from the officer as provided in § 4103(b) of this title.

(b) Upon receiving a record of the failure of a convicted person to pay a fine, costs or both as described in § 2731(b) of this title, or to timely complete a course of instruction pursuant to § 4175A or § 4177D of this title, the Department or its successor, shall:

(1) If the convicted person is a resident of this State, forthwith suspend the convicted person's license until the fine, costs or both have been paid, or the court finds that the person has completed the necessary course of instruction and paid all applicable fees; and

(2) If the convicted person is a nonresident of this State, forthwith suspend the convicted person's driving privileges in this State and immediately advise the Motor Vehicle Administrator of the state wherein the convicted person is a resident that the convicted person has failed to pay a fine, costs or both, or to timely complete a course of instruction pursuant to § 4175A or § 4177D of this title, and requesting that the convicted person's license to drive be suspended until the fine, costs or both have been paid, or the court finds that the person has completed the necessary course of instruction and paid all applicable fees.

(c) The Division shall forthwith revoke the license or driving privileges, or both, of any child upon notification by the Family Court of the State pursuant to § 1009 of Title 10.

(d) Upon receipt of notification from the Family Court pursuant to § 516(g) of Title 13, or notice from the Director of the Division of Child Support Services pursuant to § 2216 of Title 13 regarding the suspension of a license because of such person's child support delinquency, the Department shall forthwith suspend such person's commercial driver license or license to operate a motor vehicle. The provisions of §§ 516(g) and 2216 of Title 13 shall supersede any provisions of this title to the contrary with respect to any matter relating to the denial or suspension of a license under § 516(g) or § 2216 of Title 13. The Department shall create and maintain a record showing a suspended driving status for a person whose license is suspended pursuant to this subsection. A license so suspended shall remain suspended until the person obtains written certification from the Family Court or the Director of the Division of Child Support Services or the Director's designee that the grounds for suspension of the license under § 516(g) or § 2216 of Title 13 no longer exist. No occupational license may be issued in any case in which a license has been suspended pursuant to § 516(g) or § 2216 of Title 13.

(e) The Department shall forthwith suspend the license or driving privileges, or both, of any person who has been expelled from a public school upon receipt of notice from the superintendent of schools for the school district in which such school is located, that such person has been expelled. No insurer may increase the premiums charged for, or reduce the coverage provided by, any policy of vehicle insurance, as defined in § 906(a)(1) of Title 18, solely as a result of the suspension of a person's license or driving privileges under this subsection.

(f) The convictions included in subsections (a) and (b) of this section shall be deemed to include convictions for any violation of this title or a local ordinance or regulation substantially conforming to a state statutory provision.

(g) When the name and address of a resident of this State has been forwarded to the Department under § 2731(c) of this title, the Department shall refuse to renew the person's license or issue any duplicate license to the person until the person provides evidence to the Department that any of the following has occurred:

(1) The fine on the charge stated in the Uniform Traffic Complaint and Summons has been paid.

(2) The person has appeared before the court and made arrangements to take care of the charge stated in the Uniform Traffic Complaint and Summons.

(3) The person has been adjudicated not guilty of the charge stated in the Uniform Traffic Complaint and Summons.

(36 Del. Laws, c. 10 § 67; Code 1935 § 5605; 46 Del. Laws, c. 53; 46 Del. Laws, c. 187; 47 Del. Laws, c. 145; 47 Del. Laws, c. 393 § 1; 21 Del. C. 1953 § 2732; 57 Del. Laws, c. 225 §§ 1, 2; 57 Del. Laws, c. 512 § 2; 59 Del. Laws, c. 307 § 2; 60 Del. Laws, c. 702 § 3; 63 Del. Laws, c. 429 § 1; 63 Del. Laws, c. 449 § 2; 67 Del. Laws, c. 429 § 5; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 259 § 4; 70 Del. Laws, c. 452 §§ 5, 6; 71 Del. Laws, c. 216 § 84; 71 Del. Laws, c. 272 § 5; 72 Del. Laws, c. 458 § 2; 73 Del. Laws, c. 234 § 5; 74 Del. Laws, c. 285 § 2; 78 Del. Laws, c. 168 § 9; 79 Del. Laws, c. 378 § 6; 80 Del. Laws, c. 137 § 4; 80 Del. Laws, c. 201 § 1; 80 Del. Laws, c. 234 § 22.)

## § 2733 Payment of motor vehicle fines.

(a) The Department may immediately suspend the license and driving privileges or both of any person without hearing and without receiving a record of conviction of such person of crime whenever the Department has reason to believe that such person:

(1) Has committed any offense for the conviction of which mandatory revocation of license and driving privileges or both is provided in § 2732 of this title, but no license shall be suspended by reason of any conviction or convictions upon the charge of overloading any vehicle as provided in § 4502 of this title;

(2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person or serious property damage;

(3) Is incompetent to drive a motor vehicle or is a person with mental or physical disabilities rendering it unsafe for such person to drive a motor vehicle upon the highways;

(4) Is an habitual reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws of this State;

(5) Has violated § 2751(a) or (b) of this title;

(6) Has violated § 6702 of this title;

(7) Has violated § 2118A of this title; or

(8) Has violated § 4129 of this title based upon notification of such violation provided by the Department of Transportation to the Department. However, no suspension of driving privileges shall take place if the toll(s), administrative fee and civil penalty has been paid prior to the hearing required under subsection (b) of this section.

(b) Whenever the Department suspends the license of any person for any reason set forth in subsection (a) of this section, the Department shall immediately notify the licensee and afford the licensee an opportunity of a hearing before the Department in the county wherein the licensee resides. Upon such hearing the Department shall either rescind its order of suspension or, good cause appearing therefor, may suspend the license of such person for a further period or revoke the license.

(c) The Department may suspend or revoke the right of any nonresident to operate a motor vehicle in this State for any cause for which the license of a resident operator or chauffeur may be suspended or revoked, and any nonresident who operates a motor vehicle upon a highway when the right to operate has been suspended or revoked by the Department shall be punished as provided in § 2756 of this title.

(d)(1) The Department may suspend or revoke the license of any resident of this State upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this State, would be grounds for the suspension or revocation of the license of an operator or chauffeur. The Department may, upon receiving a record of the conviction in this State of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this State, forward a certified copy of such record to the Motor Vehicle Administrator in the state wherein the person so convicted is a resident.

(2) If the Department takes action pursuant to this subsection because of the receipt of notice of the conviction in another state of a resident of this State for operating a vehicle without insurance, it shall provide the resident with the opportunity to produce for the Department sufficient proof of insurance as determined by the Department showing such insurance to have been in full force and effect at all pertinent times on the day of the occurrence of the offense. If the Department determines that such insurance was in full force and effect at all pertinent times on the day of the occurrence of the offense, the resident's driver's license shall be reinstated without a fee and the notation relating to the Department's action shall be removed from the resident's driving record.

(e) The Department shall not suspend a license for a period of more than 1 year, and upon suspending or revoking any license shall require that such license so suspended or revoked be surrendered to the Department to be retained by it, except that at the end of a period of

suspension the license so surrendered shall be returned to the licensee upon payment of the reinstatement fee as provided in § 2737 of this title.

(f) The Department, upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license and driving privileges or both of such person is suspended or revoked, shall immediately extend the period of such first suspension or revocation for an additional like period.

(g) In the event of a suspension of a driver's license pursuant to this section, the Department may issue an occupational license during a period of suspension upon application by the applicant upon a form prescribed by the Department and sworn to by the applicant; provided, that the applicant sets forth in said application that the suspension of such license has created an extreme hardship in the conduct of the business usually transacted by the applicant, and that there have been no more than 2 such prior suspensions; provided, however, that no such occupational license shall be issued if the license of the applicant has been suspended for physical and/or mental disability or if the license of the applicant has been revoked for conviction of any of the crimes specified in § 2732 of this title, even though the revocation has created an extreme hardship.

(h) The Department, upon receiving a record of convictions of any person upon a charge of operating a motor vehicle in violation of the restriction imposed upon said occupational license during the period of such occupational license, shall immediately extend the period of such suspension for an additional like period and shall forthwith direct such person to surrender said occupational license to the Department.

(i) Any person whose operator's or chauffeur's license has been suspended and to whom an occupational license has been issued, who drives any motor vehicle upon the highways of this State contrary to the restrictions placed upon such occupational license during the period of such occupational license, upon conviction thereof, shall be fined not less than $25 nor more than $200.

(j) The Department ordinarily may not suspend a license based upon a driving record prior to 2 years before the date of the intended suspension. If at the discretion of the Secretary a longer record period should be considered, a suspension may be based upon such longer driving record period.

(k) The Division shall forthwith suspend the license or driving privileges, or both, of any child upon notification by the Family Court of the State pursuant to § 1009 of Title 10.

(l) Except when the name and address of a resident of this State has been forwarded to the Department under § 2731(c) of this title, the Department may, upon receiving a record, notice, or certification of noncompliance by a person for a citation, summons, ticket, or other document issued by an arresting officer for violation of a traffic law, ordinance, rule, or regulation ordering the arrested motorist to appear, suspend the driver's license or driving privileges of the person who failed to comply. The Department shall not have this power of suspension in cases of parking violations.

(m) When the name and address of a nonresident of this State has been forwarded to the Department under § 2731(c) of this title, the Department may suspend the person's driving privileges in this State and immediately advise the motor vehicle administrator of the state in which the person is a resident that the person's license to drive be suspended until the person provides evidence that any of the following has occurred:

(1) The fine on the charge stated in the Uniform Traffic Complaint and Summons has been paid.

(2) The person has appeared before the court and made arrangements to take care of the charge stated in the Uniform Traffic Complaint and Summons.

(3) The person has been adjudicated not guilty of the charge stated in the Uniform Traffic Complaint and Summons.

(36 Del. Laws, c. 10 § 68; 37 Del. Laws, c. 10 § 21; Code 1935 § 5606; 43 Del. Laws, c. 247; 46 Del. Laws, c. 121 §§ 1, 2; 47 Del. Laws, c. 393 § 2; 21 Del. C. 1953 § 2733; 53 Del. Laws, c. 89; 54 Del. Laws, c. 261; 54 Del. Laws, c. 273; 57 Del. Laws, c. 126 §§ 1-3; 57 Del. Laws, c. 167; 57 Del. Laws, c. 670 § 11A; 59 Del. Laws, c. 307 § 6; 60 Del. Laws, c. 615 § 1; 62 Del. Laws, c. 261 §§ 1-3; 65 Del. Laws, c. 77 § 5; 68 Del. Laws, c. 406 § 2; 70 Del. Laws, c. 37 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 259 § 5; 71 Del. Laws, c. 13 § 1; 74 Del. Laws, c. 235 § 1; 79 Del. Laws, c. 371 § 23; 80 Del. Laws, c. 137 § 5; 80 Del. Laws, c. 201 § 1.)

## § 2734 Appeal.

Any person denied a license or whose license has been revoked by the Department, except where such revocation is mandatory under this chapter, may appeal to the Court of Common Pleas in the county wherein such person resides. In the case of revocation, such appeal shall not operate as a stay. An appeal of a suspension of a license pursuant to § 516(g) or § 2216 of Title 13 shall be only as provided in Title 13.

(36 Del. Laws, c. 10 §§ 59, 69; 40 Del. Laws, c. 38 § 3; Code 1935 §§ 5597, 5607; 21 Del. C. 1953 § 2734; 69 Del. Laws, c. 333 § 2; 70 Del. Laws, c. 452 § 7; 71 Del. Laws, c. 216 § 85.)

## § 2735 New license after revocation; exception.

Except as otherwise provided in § 2732 of this title, a person whose license is revoked under this chapter shall not be entitled to apply for or receive a new license to drive until the expiration of 1 year from the date such former license was revoked.

(21 Del. C. 1953 § 2735; 50 Del. Laws, c. 572 § 1; 60 Del. Laws, c. 701 § 70; 63 Del. Laws, c. 429 § 2.)

## § 2736 Notice; evidence of motor vehicle records.

(a) Whenever a license is suspended or revoked under this subchapter notice shall be given to the holder of such license.

(b) Such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit of such notice in the United States mail in an envelope with postage prepaid, addressed to such person at the person's address as shown by the records of the

Department. The giving of notice by mail is complete upon the expiration of 4 days after such deposit of such notice.

(c) In any prosecution under this chapter, proof of the giving of notice of suspension or revocation in a manner provided for by subsection (b) of this section may be made by:

(1) The certificate of any officer or employee of the Department;

(2) An affidavit of any person over 18 years of age, naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof; or

(3) A computer generated list of those persons whose suspension and/or revocation notices have been electronically processed through a computer interface system of the Department and a court, such list having been generated electronically at the same time the notice is processed by the computer system.

(d) In the event that 1 of the means of proof of the giving of notice enumerated in subsection (c) of this section is utilized, then it shall be unnecessary for any employee or agent of the Department to appear personally in court.

(e) In any prosecution under this Code, a conviction record as maintained in the Division of Motor Vehicles, which has been certified by the Director of the Division of Motor Vehicles, may be admitted into evidence and shall be competent evidence that the person named therein was duly convicted of each offense enumerated therein and of the status of that person's driving license and/or privileges. It shall be unnecessary for any employee or agent of the Department to personally appear for the admission into evidence of such conviction record in any proceeding under this Code.

(21 Del. C. 1953 § 2736; 50 Del. Laws, c. 411 § 1; 58 Del. Laws, c. 511 § 46; 69 Del. Laws, c. 368 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 416 §§ 1-3.)

## § 2737 Fee for return of suspended license and/or driving privileges.

Any person whose license and/or driving privileges has been suspended or disqualified shall pay a fee of $50 at the end of such suspension or disqualification for the return of the person's license and/or the reinstatement of the person's driving privileges.

(21 Del. C. 1953 § 2737; 57 Del. Laws, c. 94; 60 Del. Laws, c. 387 § 1; 62 Del. Laws, c. 238 § 1; 63 Del. Laws, c. 430 § 9; 64 Del. Laws, c. 13 § 9; 67 Del. Laws, c. 157 § 10; 67 Del. Laws, c. 260 § 1; 67 Del. Laws, c. 270 § 1; 70 Del. Laws, c. 186 § 1; 80 Del. Laws, c. 77 § 7.)

## § 2738 Fee for return of revoked license and/or driving privileges.

Any person whose license and/or driving privileges has been revoked shall pay a fee of $200 at the end of such revocation for the reinstatement of the person's driving privileges. The above-stated fee does not include the fee for the issuance of a new license.

(63 Del. Laws, c. 430 § 10; 64 Del. Laws, c. 13 § 10; 67 Del. Laws, c. 260 § 1; 70 Del. Laws, c. 186 § 1; 80 Del. Laws, c. 77 § 8.)

## § 2739 Fee for occupational and conditional license.

Any person whose license and/or driving privileges has been suspended or revoked pursuant to this title and who applies for an occupational license or conditional license shall pay a fee of $10 for such occupational or conditional license.

(67 Del. Laws, c. 239 § 1.)

## § 2739A Suspension resulting from active military duty; reinstatement.

(a) In any case in this or any other jurisdiction in which an operator is charged with an initial driving offense for which a mandatory court appearance is scheduled, and the operator's driving license is suspended in this State by the Division of Motor Vehicles for failure to appear at the scheduled hearing, the operator shall not be convicted of a subsequent violation of § 2701(b) or § 2756 of this title if, prior to conviction on the subsequent offense, the operator shall produce to the court in which the subsequent offense is to be tried military orders establishing that the operator was on active military duty, without authorized leave, at a location that precluded attendance at the hearing of the initial offense, and proof positive of payment or other complete disposition of the initial offense.

(b) In the event of dismissal or withdrawal of the charge under § 2701(b) or § 2756 of this title under the circumstances set forth in subsection (a) of this section, the Division of Motor Vehicles shall reinstate or lift the suspension on the license of the operator upon receipt of proof of such dismissal or withdrawal of the charges. Such proof may be in the form of notice from the court or prosecuting official or other information satisfactory to the Division. Any fee that would otherwise be required for such reinstatement shall be waived.

(c) In the event that no subsequent charge has resulted from the suspension, upon presentation to the Division of Motor Vehicles of the same material set forth in subsection (a) of this section, the Division shall reinstate or lift the suspension on the license of the operator. Any fee that would otherwise be required for such reinstatement shall be waived.

(74 Del. Laws, c. 30 § 1.)

# Subchapter III

# Suspension and Revocation of License for Refusal to Submit to Chemical Test

## § 2740 Consent to submit to chemical test; probable cause; test required.

(a) Any person who drives, operates or has in actual physical control a vehicle, an off-highway vehicle, or a moped within this State shall

be deemed to have given consent, subject to this section and §§ 4177 and 4177L of this title to a chemical test or tests of that person's blood, breath and/or urine for the purpose of determining the presence of alcohol or a drug or drugs. The testing may be required of a person when an officer has probable cause to believe the person was driving, operating or in physical control of a vehicle in violation of §§ 4177 and 4177L or § 2742 of this title, or a local ordinance substantially conforming thereto.

(b) The testing shall be required of a person when an officer has probable cause to believe the person was driving, operating or in physical control of a vehicle in violation of § 4177 or § 2742 of this title or a local ordinance substantially conforming thereto and was involved in an accident which resulted in a person's death. In the event of a fatal accident if the officer does not believe that probable cause exists to require testing, then the officer shall file a written report outlining the reasons for that determination.

(21 Del. C. 1953 § 2740; 57 Del. Laws, c. 52; 61 Del. Laws, c. 474 § 1; 63 Del. Laws, c. 430 § 1; 64 Del. Laws, c. 13 § 1; 70 Del. Laws, c. 36 § 2; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 236 § 1; 70 Del. Laws, c. 265 § 1.)

## § 2741 Administration of test; refusal to take test.

(a) At the time a chemical test specimen is required, the person may be informed that if testing is refused, the person's driver's license and/or driving privilege shall be:

(1) Revoked for a period of at least 1 year if a violation of § 4177 is alleged; or

(2) Revoked for a period of at least 2 months if a violation of § 4177L is alleged.

The test(s) shall be administered by qualified personnel, as defined in § 2746 of this title, at the direction of the police officer who shall designate which of the tests shall be administered.

(b) If there are reasonable grounds to believe that there is impairment by a drug or drugs which are not readily subject to detection by a breath test, a blood and/or urine test may be required even after a breath test has been administered.

(c) The fact that the police officer offered or required a person to submit to a preliminary screening test of the person's breath in order to estimate the alcohol concentration of the person's blood, at the scene of the stop or other initial encounter between the officer and the person, shall have no bearing upon the implied consent provisions of this chapter. Refusal to take such a preliminary screening test shall not be deemed an implied consent violation nor shall the taking of such a test satisfy the requirements of the implied consent law.

(21 Del. C. 1953 § 2740A; 57 Del. Laws, c. 52; 61 Del. Laws, c. 474 § 1; 63 Del. Laws, c. 430 § 2; 64 Del. Laws, c. 13 § 2; 70 Del. Laws, c. 36 § 12; 70 Del. Laws, c. 186 § 1.)

## § 2742 Revocation; notice; hearing.

(a) If a person refuses to permit chemical testing, after being informed of the penalty of revocation for such refusal, the test shall not be given but the police officer shall report the refusal to the Department. The police officer may, however, take reasonable steps to conduct such chemical testing even without the consent of the person if the officer seeks to conduct such test or tests without informing the person of the penalty of revocation for such refusal and thereby invoking the implied consent law.

(b)(1) Upon certification by the police officer that there existed probable cause to believe that the person had been acting in violation of § 4177 of this title or a local ordinance substantially conforming thereto and that the person refused to submit to a chemical test after being informed of the penalty of revocation for such refusal, the Secretary shall revoke the person's driver's license and/or driving privilege for a period of 1 year for a person with no previous violation of § 4177 of this title or this section or a similar statute of any state or the District of Columbia or local government, within 5 years of the date of the charge in question; 18 months' revocation for a person with 1 previous violation of such statutes as described above; and 24 months' revocation for a person with 2 or more previous violations of such statutes as described above.

(2) Upon certification by the police officer that there existed probable cause to believe that the person had been acting in violation of § 4177L of this title or a local ordinance substantially conforming thereto and that the person refused to submit to a chemical test after being informed of the penalty of revocation for such refusal, the Secretary shall revoke the person's driver's license and/or driving privilege for a period of 2 months for a person with no previous violation of § 4177L of this title or this section or a similar statute of any state or the District of Columbia or local government; 6 months for a person with a previous violation of such statutes as described above; and 12 months revocation for a person with 2 or more previous violations of such statutes as described above.

(c) Except in those cases wherein the police officer acts pursuant to subsection (b) of this section:

(1) Upon certification by the police officer that there existed probable cause to believe that the person was in violation of § 4177 of this title or a local ordinance substantially conforming thereto and the person was arrested on that occasion for a violation of § 4177 of this title or a local ordinance substantially conforming thereto or for violation of a criminal statute dealing with injury or death caused to another person by the person's driving or operation of the vehicle, if driving under the influence is included as an element of such charge, the Secretary shall revoke the person's driver's license and/or driving privilege for a period of 3 months for a first time DUI offender, 1 year for a second DUI offender, or 18 months for more than 2 DUI offenses. For purposes of this subsection, a DUI offender shall include anyone who has previously committed a first offense as defined in § 4177B(e) or lost their license pursuant to this section and any person convicted of a violation of § 4177 of this title or similar statutes of any state or the District of Columbia or local government within 5 years of the date of the charge in question, a revocation within 5 years of said date for an implied consent violation or a revocation within 5 years of said date under this subsection.

(2) Upon certification by the police officer that there existed probable cause to believe that the person was in violation of § 4177L of this title or a local ordinance substantially conforming thereto, and the person was arrested on that occasion for a violation of § 4177L of

this title or a local ordinance substantially conforming thereto, the Secretary shall revoke the person's driver's license and/or driving privileges for a period of 2 months for the first offense under said section or from 6 to 12 months for each subsequent offense pursuant to said section.

(d) No revocation under subsection (b) or (c) of this section is effective until the Secretary or a police officer or other person acting on the Secretary's behalf notifies the person of the revocation and allows the person a 15-day period to request of the Secretary in writing a hearing as herein provided. If no request is filed in writing with the Division of Motor Vehicles within the 15-day period, the order of revocation becomes effective. If a request for a hearing is filed, a revocation is not effective until the final decision of the hearing officer resulting in a decision adverse to the person.

(e) On behalf of the Secretary, the police officer offering a chemical test or directing the administration of a chemical test shall serve immediate notice of revocation on a person who refuses to permit chemical testing after being informed of the penalty of revocation for such refusal, or on a person who is arrested on that occasion, either for a violation of § 4177 or § 4177L of this title or a local ordinance substantially conforming thereto or for violation of a criminal statute dealing with injury or death caused to another person by the person's driving or operation of the vehicle, if driving under the influence is included as an element of such charge. The officer shall take the Delaware license or permit of the driver in any such case and issue a temporary license effective only for 15 days with a provision for an additional period if a written request for a hearing is received by the Division of Motor Vehicles within the 15-day period. The police officer shall send the person's driver's license or permit to the Secretary along with the certificate required by subsection (b) or (c) of this section.

(f) The hearing under this section shall be before the Secretary or the Secretary's designee. The scope of the hearing shall cover the issues of:

(1) With respect to subsections (b) and (c) of this section, whether the police officer had probable cause to believe the person was in violation of § 4177 or § 4177L of this title or a local ordinance substantially conforming thereto.

(2) With respect to paragraph (c)(1) of this section, whether by a preponderance of the evidence it appears that the person was in violation of § 4177 of this title or a local ordinance substantially conforming thereto. For purposes of this subsection an alcohol concentration of .08 or more pursuant to testing provided for in this section, or § 4177 of this title, or a positive indication of the presence of drugs, shall be conclusive evidence of said violation.

(3) With respect to paragraph (c)(2) of this section, whether by a preponderance of the evidence it appears that the person was in violation of § 4177L of this title or a local ordinance substantially conforming thereto. For purposes of this subsection an alcohol concentration of .02 or more pursuant to the testing referred to in this section shall be conclusive evidence of said violation.

(4) With respect to subsection (b) of this section, whether the person refused to permit the test after being informed of the penalty of revocation for such refusal.

(g) The hearing specified in this section shall be scheduled within 60 days following the filing of the request for a hearing.

(h) In addition to the revocation authorized by this section, the Secretary shall require attendance of the person whose license is revoked at a course of instruction or rehabilitation program established under § 4177D of this title.

(21 Del. C. 1953 § 2740B; 57 Del. Laws, c. 52; 57 Del. Laws, c. 620 § 12A; 61 Del. Laws, c. 474 § 1; 63 Del. Laws, c. 307 § 1; 63 Del. Laws, c. 430 § 3; 64 Del. Laws, c. 13 § 3; 70 Del. Laws, c. 26 § 11; 70 Del. Laws, c. 36 §§ 3, 5-7, 13-15; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 92 § 13; 74 Del. Laws, c. 333 § 4; 75 Del. Laws, c. 397 § 14; 79 Del. Laws, c. 396 § 1.)

## § 2743 Duration of revocation.

(a) Any revocation pursuant to § 2742(b)(1) of this title shall be for a period of 1 year, 18 months or 24 months as appropriate, from the effective date of the revocation.

(b) Any revocation pursuant to § 2742(c)(1) of this title shall be for a period of 3 months, 1 year or 18 months, as appropriate, from the effective date of the revocation.

(c) The Secretary shall not issue a driver's license to anyone who has been found in violation of § 2742(b)(1) or (c)(1) of this title until:

(1) They have satisfactorily completed a program established under § 4177D of this title; and

(2) Have paid all fees under the schedule adopted by the Secretary; and

(3) The individual has had a favorable character investigation conducted by the Division of Motor Vehicles.

(d) Any revocation pursuant to § 2742(b)(2) of this title shall be for a period of 2 months, 6 months or 12 months as appropriate, from the effective date of the revocation.

(e) Any revocation pursuant to § 2742(c)(2) of this title shall be for a period of 2 months, 6 months or 12 months as appropriate, from the effective date of the revocation.

(f) If, after expiration of the period of revocation and upon compliance with subsection (c) of this section, the Secretary refuses to issue a driver's license, the applicant may appeal the Secretary's denial to the Court of Common Pleas in the county wherein the applicant resides.

(g) Notwithstanding subsection (a) of this section, upon satisfactory completion of a program established under § 4177D of this title a person who is a first offender and meets the criteria specified in § 4177B(a) and whose license has been revoked pursuant to § 2742(b) of this title shall be permitted to apply for a driver's license under the following terms:

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

(2) At least 6 months have elapsed since the date of the revoked license or temporary license, whichever is later, reached the Division

of Motor Vehicles;

(3) The individual has had a favorable character investigation conducted by the Division of Motor Vehicles.

(h) Notwithstanding subsections (a) and (b) of this section, any person who meets the criteria specified in § 4177C of this title may be permitted to apply for the ignition interlock device [IID] to be installed on a vehicle to be driven by the applicant and may be issued an IID license upon meeting the requirements specified in § 4177C of this title.

(21 Del. C. 1953 § 2740C; 57 Del. Laws, c. 52; 61 Del. Laws, c. 474 § 1; 63 Del. Laws, c. 307 § 3; 63 Del. Laws, c. 430 § 4; 64 Del. Laws, c. 13 § 4; 69 Del. Laws, c. 333 § 3; 70 Del. Laws, c. 36 §§ 10, 11, 16, 17; 75 Del. Laws, c. 397 § 10.)

## § 2744 Appeal.

The decision of the Secretary shall be final and not subject to judicial review or appeal, unless the Secretary rules against the person at a hearing requested by such person in which event the person may appeal to the Court of Common Pleas, but the appeal shall not operate as a stay of the revocation of that person's license, permit or privilege to drive.

(21 Del. C. 1953 § 2740D; 57 Del. Laws, c. 52; 63 Del. Laws, c. 430 § 5; 64 Del. Laws, c. 13 § 5; 69 Del. Laws, c. 333 § 4; 70 Del. Laws, c. 186 § 1.)

## § 2745 Results of test available upon request.

Upon request of any person submitting to a chemical test under this subchapter the result of such test shall be made available to that person, unless that person has entered a plea of guilty to the charge made against that person.

(21 Del. C. 1953 § 2740E; 57 Del. Laws, c. 52; 70 Del. Laws, c. 186 § 1.)

## § 2746 Persons qualified to administer tests.

Only duly licensed physicians, registered nurses, licensed practical nurses or other persons trained in medically accepted procedures for the drawing of blood and employed by a hospital or other health care facility, acting at the request of a police officer, may withdraw blood from a person submitting to a chemical test under this subchapter. This limitation shall not apply to obtaining a specimen of breath or urine as to which qualified personnel shall include a police officer as well as the above personnel. Notwithstanding any other provision of law to the contrary, it shall not be necessary in any proceeding under this Code to produce evidence that a person who has withdrawn blood from a person submitting to a chemical test under this title was qualified to do so as defined in this section. Notwithstanding any other provision of law to the contrary, it shall not be necessary to present the testimony of, or certification by, a person who has withdrawn blood from a person pursuant to this section in order to establish chain of physical custody of such evidence.

(21 Del. C. 1953 § 2740F; 57 Del. Laws, c. 52; 66 Del. Laws, c. 160 § 1; 71 Del. Laws, c. 222 § 1.)

## § 2747 Alternate tests; physical incapacity.

If for any reason a person is physically unable to supply enough breath or complete the chemical test, that person shall submit to such other chemical tests as authorized by this subchapter as the police officer shall elect, subject to the requirements of § 2746 of this title. Any person who is unconscious or who is otherwise in a condition rendering that person incapable of refusal shall be deemed not to have withdrawn the consent provided in § 2740 of this title and any test may be performed as provided in § 2746 of this title.

(21 Del. C. 1953 § 2740G; 57 Del. Laws, c. 52; 63 Del. Laws, c. 430 § 6; 64 Del. Laws, c. 13 § 6; 70 Del. Laws, c. 186 § 1.)

## § 2748 Civil liability.

A duly licensed physician, medical technician or registered nurse withdrawing a blood sample under this subchapter and a hospital employing such physician, technician or nurse shall not be liable for civil damages for any acts or omissions arising out of the taking of such sample, provided, however, this section shall not relieve such person from civil liability for any malicious act or gross negligence perpetrated in taking the blood.

(21 Del. C. 1953 § 2740H; 57 Del. Laws, c. 52.)

## § 2749 Refusal to submit as admissible in evidence.

Upon the trial of any action or proceeding arising out of the acts alleged to have been committed by any person while in violation of § 4177 or § 4177L of this title or local ordinance substantially conforming thereto, the court may admit evidence of the refusal of such person to submit to a chemical test of breath, blood or urine under this subchapter.

(21 Del. C. 1953 § 2740I; 57 Del. Laws, c. 52; 63 Del. Laws, c. 430 § 7; 64 Del. Laws, c. 13 § 7; 70 Del. Laws, c. 36 § 8; 70 Del. Laws, c. 186 § 1.)

## § 2750 Admissibility in evidence of results of chemical test.

(a) Upon the trial of any action or proceeding arising out of acts alleged to have been committed by any person while under the influence of alcohol, a drug or drugs, with respect to any chemical test taken by or at the request of the State, the court shall admit the results of a chemical test of the person's breath, blood or urine according to normal rules of search and seizure law. The informing or failure to inform the accused concerning the implied consent law shall not affect the admissibility of such results in any case, including a prosecution for a violation of § 4177 of this title. The informing of an accused concerning the implied consent law shall only have application and be relevant at a hearing concerning revocation of the driver's license of said person for a violation of the implied consent law. Nothing contained in this

section shall be deemed to preclude the admissibility of such evidence when such evidence would otherwise be admissible under the law relative to search and seizure law such as when such evidence has been obtained by valid consent or other means making the obtaining of the evidence legal under the Fourth Amendment.

(b) The doctor-patient privilege shall not apply to the disclosure to law-enforcement personnel nor the admissibility into evidence in any criminal proceeding of the results of a chemical test of a person's blood, breath or urine for the purpose of determining the alcohol or drug content of that person's blood irrespective of whether such test was done at the request of a treating physician, other medical personnel or a peace officer.

(63 Del. Laws, c. 86 § 1; 63 Del. Laws, c. 430 § 8; 64 Del. Laws, c. 13 § 8; 70 Del. Laws, c. 186 § 1.)

## Subchapter IV

## Penalties

### § 2751 Unlawful application for or use of license or identification card.

(a) Fraud in obtaining or attempting to obtain driver's license or identification card. — A person shall not fraudulently obtain or attempt to obtain a driver's license or an identification card by misrepresentation.

(b) Fraud in application for license or identification card. — A person shall not in any application for a driver's license or identification card:

(1) Use a false or fictitious name;

(2) Make a false statement;

(3) Conceal a material fact; or

(4) Otherwise commit a fraud.

(c) Display of canceled licenses. — A person shall not display, cause or permit to be displayed, any canceled license.

(d) Display of revoked licenses. — A person shall not display, cause or permit to be displayed, any revoked license.

(e) Display of suspended licenses. — A person shall not display, cause or permit to be displayed, any suspended license.

(f) Display of fictitious licenses or identification cards. — A person shall not display, cause or permit to be displayed, any fictitious license or identification card.

(g) Display of fraudulently altered license or identification card. — A person shall not display, cause or permit to be displayed, any fraudulently altered license or identification card.

(h) Possession of canceled license. — A person shall not possess any canceled license.

(i) Possession of revoked license. — A person shall not possess any revoked license.

(j) Possession of suspended license. — A person shall not possess any suspended license.

(k) Possession of fictitious license or identification card. — A person shall not possess any fictitious license or identification card.

(l) Possession of fraudulently altered license or identification card. — A person shall not possess any fraudulently altered license or identification card.

(m) Loaning license. — A person shall not lend that person's license to any other person or permit the use of license by another.

(n) Display or representation of license or identification card not one's own. — A person shall not display or represent as that person's own any license or identification card not issued to that person.

(o) Failure or refusal to surrender license or identification card. — A person shall not fail or refuse to surrender to the Department on its lawful demand any license or identification card that has been suspended, revoked, canceled, altered or otherwise fraudulently obtained.

(p) Permitting unlawful use of license or identification card. — A person shall not permit any unlawful use of a license or identification card issued to that person.

(q) Prohibited acts. — A person shall not do any act forbidden or fail to perform any act required by this title.

(r) Penalty. — Unless otherwise specifically provided for in Chapter 31 of this title, an individual who violates this section shall be guilty of a class B misdemeanor and shall have that individual's driver's license and/or driving privileges suspended for a period to be set by the Court, not to exceed 6 months. The foregoing sentence notwithstanding, an individual who violates subsection (d), (e), (i) and/or (j) of this section by possessing or displaying a driver's license that has been suspended or revoked by application of the following statutes shall be guilty of a violation only, provided that the judicial officer adjudicating the charge or charges brought under subsections (e) and (j) of this section has made a factual finding that the defendant was reasonably unaware the driver's license that defendant possessed or displayed had been suspended or revoked:

Title 4, § 904(f)

Title 11, § 2106(c)

Title 11, § 4104(g)

Title 14, § 2730(c)(7)

Title 14, § 4130(e)(1)

Section 314(b) of this title

Section 709(j)(1) of this title
Section 2118(n)(1) of this title
Section 2703(d)(5) of this title
Section 2710(e)(5) of this title
Section 2724(b) of this title.

(s) Hardship license. — When a driver's license and/or driving privileges is suspended pursuant to this section, the applicant shall not be eligible for a conditional license, occupational license, work license or any other type of hardship license during the period of suspension, except that after 60 days of suspension the applicant may be eligible for a work license which shall be strictly limited to commuting to or from the applicant's place of employment and such driving as is a necessary part of the duties of said employment.

(36 Del. Laws, c. 10 § 73; 37 Del. Laws, c. 10 § 22; Code 1935 § 5611; 21 Del. C. 1953 § 2741; 62 Del. Laws, c. 237 § 27; 66 Del. Laws, c. 416 § 1; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 318 § 1.)

## § 2752 False statements.

Whoever makes any false affidavit or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter to be sworn to or affirmed is guilty of perjury and shall be fined or imprisoned as are other persons committing perjury.

(36 Del. Laws, c. 10 § 74; Code 1935 § 5612; 21 Del. C. 1953 § 2742.)

## § 2753 Operation of vehicle by unlicensed minor.

No person shall cause or knowingly permit any minor operator, unless such minor has first obtained a license, to drive a motor vehicle under this chapter.

(36 Del. Laws, c. 10 § 75; Code 1935 § 5613; 21 Del. C. 1953 § 2743.)

## § 2754 Employment of unlicensed person.

No person shall employ any person to operate a motor vehicle who is not licensed as provided in this chapter.

(36 Del. Laws, c. 10 § 76; Code 1935 § 5614; 21 Del. C. 1953 § 2744; 62 Del. Laws, c. 237 § 28.)

## § 2755 Authorizing or permitting the operation of a motor vehicle by another.

No person shall authorize or permit a motor vehicle owned by that person or under that person's control to be driven by any person knowing that said person has no legal right to do so or shall authorize or permit said motor vehicle to be driven in violation of this title.

(36 Del. Laws, c. 10 § 77; Code 1935 § 5615; 21 Del. C. 1953 § 2745; 50 Del. Laws, c. 570 § 1; 70 Del. Laws, c. 186 § 1.)

## § 2756 Driving vehicle while license is suspended or revoked; penalty.

(a) Any person whose driver's license or driving privileges have been suspended or revoked and who drives any motor vehicle upon the highways of this State during the period of suspension or revocation shall for the first offense be fined not less than $500 nor more than $1,000 and be imprisoned not less than 30 days nor more than 6 months. For each subsequent like offense, such person shall be fined not less than $1,000 nor more than $4,000 and in addition be imprisoned not less than 60 days nor more than 1 year. However, for a first offense under this section, if the suspension or revocation resulted from a prior or previous driving under the influence-related conviction or offense as defined in § 4177B(e)(1)a.-d. of this title, the minimum fine shall be $600. For purposes of this section a subsequent offense shall be defined as one occurring within 3 years of a former offense.

(b) The minimum fine for a first or subsequent offense shall not be subject to suspension. The minimum period of imprisonment for a subsequent offense shall not be subject to suspension. In addition, for any offense under this section, if the suspension or revocation resulted from a violation of any criminal statute pertaining to injury or death caused to another person by the person's driving or operation of a vehicle or a driving under the influence-related conviction or offense as defined in § 4177B(e)(1)a.-d. of this title, the minimum fine shall be $2,000 and shall not be subject to suspension and the minimum period of imprisonment shall not be subject to suspension but shall, notwithstanding any provision of this section or title to the contrary, be served subject to the provisions of § 4205A(b) of this title.

(c)(1) With respect to any vehicle used in connection with a violation of this section, while the permit or license of the operator was revoked for violation of § 2742 or § 4177 of this title or pursuant to § 2732 of this title, the court, at the time of sentencing the operator for violating this section, may, upon motion by the State, order the said vehicle be impounded for at least 90 days for the first violation of this section, and for at least 1 year for a subsequent violation, provided that a public or private secure storage area may be obtained by the arresting police agency for said vehicle. The court shall permit any party with a legal or equitable interest in the vehicle an opportunity to show cause why the impoundment of such vehicle should cease. Prior to release of said vehicle, the person to whom the vehicle is released shall pay all reasonable towing and storage fees connected therewith. The State and the arresting police agency shall not be liable for any expenses incurred in connection with the towing and storage of said vehicle.

(2) In lieu of impoundment, the number plate or registration plate of any vehicle used in connection with a violation of this section, while the permit or license of the operator was revoked for violation of § 4177 or § 2742 of this title or pursuant to § 2732 of this title, shall be surrendered to the Department for at least 90 days for the first violation of this section, and for at least 1 year for a subsequent violation. The court shall permit any party with a legal or equitable interest in the vehicle an opportunity to show cause why the surrender of said plate should cease.

(d) Notwithstanding the foregoing, if the judge determines that the sole reason that an individual's license was suspended is failure to pay a fine for a traffic offense which is eligible for voluntary assessment (whether or not the voluntary assessment procedure was offered or used), the provisions of subsections (a) to (c) of this section shall not apply and the penalties of § 2701(e) of this title shall apply, which penalties may be suspended.

(36 Del. Laws, c. 10 §§ 78, 80; Code 1935 § 5616; 21 Del. C. 1953 § 2746; 56 Del. Laws, c. 387 § 1; 57 Del. Laws, c. 125; 60 Del. Laws, c. 603 § 1; 63 Del. Laws, c. 430 § 11; 64 Del. Laws, c. 13 § 11; 68 Del. Laws, c. 9 §§ 15, 16; 70 Del. Laws, c. 369 § 1; 72 Del. Laws, c. 231 § 1; 74 Del. Laws, c. 106 §§ 30, 31; 74 Del. Laws, c. 285 § 3.)

## § 2757 Penalties.

(a) Whoever violates this chapter shall for the first offense be fined not less than $25 nor more than $115. For each subsequent like offense, such person shall be fined not less than $50 nor more than $230, or imprisoned not less than 10 nor more than 30 days, or both.

(b) This section shall not apply to violations for which a specific punishment is set forth elsewhere in this chapter.

(36 Del. Laws, c. 10 § 79; Code 1935 § 5617; 46 Del. Laws, c. 81; 21 Del. C. 1953 § 2747; 65 Del. Laws, c. 503 § 13; 68 Del. Laws, c. 9 § 17; 70 Del. Laws, c. 186 § 1.)

## § 2758 Driving during period of denial; penalties.

(a) Any person not licensed to drive a motor vehicle who is arrested and convicted of an offense for which the penalty is a mandatory suspension or revocation of driver's license or driving privileges shall be ineligible for licensing for a time equivalent to the time that person's license would have been suspended or revoked if that person had been licensed.

(b) Any person not licensed as a driver who is convicted of driving a motor vehicle during a license denial period shall be punished as provided in § 2756 of this title.

(21 Del. C. 1953 § 2748; 57 Del. Laws, c. 226.)

## § 2759 Liability for towing expenses.

Whenever a motor vehicle is towed in connection with the enforcement of § 4177 of this title or a criminal offense for which violation of § 4177 of this title is an element, the person to whom the vehicle is released shall be liable for the towing and storage costs, except that the police agency ordering such towing shall be liable for such costs if the driver was not actually arrested for driving in violation of § 4177 of this title or another criminal offense as a result of that incident and no other existing situation reasonably necessitated such towing.

(64 Del. Laws, c. 13 § 12.)

## § 2760 Duplication, reproduction, manufacture and sale, altering, or counterfeiting of driver licenses or identification cards; presenting fraudulent identification and driving authority source documents.

(a) A person or company shall not duplicate, reproduce, alter or counterfeit a Delaware driver license or identification card or a driver license or identification card issued by an authorized issuing agency from another state.

(b) A person or company shall not sell, offer for sale, manufacture or distribute a driver license or identification card document that is similar in design, shape, size or color to any driver license or identification card issued by the Delaware Division of Motor Vehicles or by an authorized driver license and/or identification card issuing agency from another state. This includes any driver license or identification card that uses the word "Delaware" or any other state name or has the words "not issued by a government agency" or similar words.

(c) It shall be unlawful to present fraudulent personal identification source documents, state issued driver licenses or state issued identification cards when applying for a Delaware driver license or identification card. If the Division of Motor Vehicles has reason to believe the documents provided by an applicant are fraudulent after physically examining the documents and/or by using an electronic verification process, the Division shall confiscate the documents, deny the transaction, and provide the documents to a law-enforcement officer or Division investigator. The investigator may recommend prosecution, deny issuance of the document, return the confiscated documents to the applicant, or take any other action deemed appropriate. The applicant may request an administrative hearing to challenge the Division's decision to retain the confiscated documents or to continue denial of the driver license or identification card based on the presentation of the questioned documents.

(d) Identification documents produced by other State of Delaware agencies are exempt from this section.

(e)(1) Any person convicted of a violation of subsection (a) or (c) of this section shall be fined not less than $500, nor more than $1,500 or imprisoned not less than 30 days, nor more than 60 days. In addition, the person shall have that person's driver license and/or driving privileges suspended for a period of 1 year.

(2) Any person convicted of a violation of subsection (b) of this section shall be guilty of a class G felony as the same is defined in Chapter 42 of Title 11 and shall be sentenced in accordance therewith.

(f) When a driver license and/or driving privileges is/are suspended pursuant to this section, the applicant shall not be eligible for a conditional license, work license or any other type of hardship license during the suspension period.

(66 Del. Laws, c. 410 § 1; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 172 § 1.)

# Subchapter V

# Taxicab and Limousine Driver

## § 2761 Licensing of taxicab and limousine operators.

No person shall drive any taxicab or limousine as defined under Chapter 18 of Title 2 upon any highway of this State unless such person, upon application, has been licensed as a taxicab or limousine operator by the Department under this chapter.

(Code 1935 § 5719r; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2761; 78 Del. Laws, c. 287 § 1.)

## § 2762 License endorsed for taxicab and limousine.

The Department shall endorse on the driver's license of the applicant an authorization to operate a taxicab and limousine.

(Code 1935 § 5719s; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2762; 49 Del. Laws, c. 57 § 1; 58 Del. Laws, c. 511 § 47; 61 Del. Laws, c. 60 §§ 1, 2; 78 Del. Laws, c. 287 § 1.)

## § 2763 Qualifications for taxicab and limousine license.

(a) To qualify for a taxicab and limousine endorsement an applicant must meet all of the following requirements:

(1) Be at least 18 years of age with 1 year of driving experience;

(2) Meet the requirements of § 2707 of this title;

(3) Never have been convicted of any of the following crimes under the laws of this State or any other jurisdiction:

a. Any crime against a child;

b. Any crime constituting a class A or B felony;

c. Any crime constituting a felony homicide, including, but not limited to, murder, manslaughter and vehicular homicide; or

d. Any crime constituting a felony sexual offense.

f., g. [Repealed.]

(4) Has not been convicted or pled guilty, within the last 7 years, to any of the following offenses, either under Delaware law or a substantially similar law of another state or of the United States:

a. Driving under the influence under § 4177, § 4177J, § 4177L, or § 4177M of this title;

b. Any crime constituting a felony offense, including any crime constituting a felony offense against public administration involving bribery, improper influence or abuse of office;

c. A hit and run offense under Chapter 42 of this title;

d. Driving over 100 mph; or

e. Reckless driving under § 4175 of this title; or

(5) Has not had that person's driver's license suspended, revoked, or disqualified in this State or any other jurisdiction for moving violations during the immediate preceding 3 years.

(b) Any taxicab and limousine and endorsement issued shall automatically be rescinded by the Director of the Division of Motor Vehicles if the applicant has not shown evidence of having satisfactorily completed, within 30 days of the date of endorsement, a motor vehicle accident prevention course approved by the Director of the Division of Motor Vehicles.

(c) The Department may conduct a criminal history background check for the purposes of issuing a taxicab and limousine endorsement pursuant to this section. This check shall include a national criminal history background check, in addition to a review of the applicant's Delaware-based criminal history, a fingerprinting of applicants who are to be subjected to a national criminal history background check, and expressly authorizes the use of records of the Federal Bureau of Investigation for screening the applicants.

(Code 1935 § 5719t; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2763; 61 Del. Laws, c. 60 §§ 1, 3; 64 Del. Laws, c. 411 § 1; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 252 § 10; 78 Del. Laws, c. 287 § 1; 79 Del. Laws, c. 250 § 2; 80 Del. Laws, c. 121 § 1; 80 Del. Laws, c. 275 § 2.)

## § 2764 Fee for taxicab authorization.

The fee for the authorization specified in § 2762 of this title shall be $3.45. The fee for renewals is also $3.45.

(Code 1935 § 5719u; 46 Del. Laws, c. 270 § 1; 21 Del. C. 1953 § 2764; 61 Del. Laws, c. 60 §§ 1, 4; 67 Del. Laws, c. 260 § 1.)

## § 2765 Out-of-state taxi and limousine drivers; qualifications.

Out-of-state taxi and limousine drivers shall meet the requirements of their home state for driving a taxi or limousine and meet the qualification requirements as defined in § 2763 of this title before operating a taxi or limousine upon the highways of this State.

(1) An out-of-state taxi or limousine driver shall:

a. Upon first employment, and thereafter annually, provide to the driver's employer a current copy of the driver's home state driving record;

b. Upon first employment, and upon re-employment following separation, provide to the driver's employer a current copy of the driver's criminal history background check; and

c. Inform the driver's employer any time his or her driver license is suspended or revoked.

(2) The employer of an out-of-state taxi or limousine driver shall:

a. Maintain on file a current copy of the driver's driving records;

b. Annually update and review the driver's driving records using the same qualification criteria as found in § 2763 of this title; and

c. Maintain on file a current copy of the driver's criminal history background check.

(3) An employer of an out-of-state taxi or limousine driver shall not knowingly permit a driver to operate a taxi or limousine upon the highways of this State when the employer is aware of any disqualifying crimes or motor vehicle violations as defined in § 2763 of this title.

(78 Del. Laws, c. 287 § 1; 70 Del. Laws, c. 186 § 1.)

## §§ 2766 -2781. Taxicab drivers' licenses; special examinations; issuance; refusal or revocation; appeal; records; duplicate certificates; duty to sign, carry and display; term and renewal; report of convictions; mandatory revocation; discretionary suspension or revocation; duration; appeal; violations; false statements; driving while suspended; penalties.

(Repealed by 61 Del. Laws, c. 60 § 1, eff May 24, 1977.)

# Part II
# Registration, Title and Licenses
# Chapter 28
# HABITUAL OFFENDERS

## § 2801 Declaration of policy.

It is hereby declared to be the policy of this State to:

(1) Provide maximum safety for all persons who travel or otherwise use the public highways of this State; and

(2) Deny the privilege of operating motor vehicles on our highways to persons who by their conduct and record have demonstrated their indifference to the safety and welfare of others and their disrespect for the laws of this State, the orders of its courts and the statutorily required acts of its administrative agencies; and

(3) Discourage repetition of criminal acts by individuals against the peace and dignity of this State and the State's political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of the motor vehicle laws.

(21 Del. C. 1953 § 2801; 58 Del. Laws, c. 416; 70 Del. Laws, c. 186 § 1.)

## § 2802 "Habitual offender" defined.

An "habitual offender" shall be any person, resident or nonresident, whose driving record, as maintained in the office of the Division of Motor Vehicles, shows that such person has accumulated convictions for separate and distinct offenses described in paragraph (1) of this section during a 5-year period or paragraph (2) of this section during a 3-year period, provided, that where more than 1 included offense shall be committed within a 24-hour period, such multiple offenses shall be treated for the purposes of this chapter as 1 offense:

(1) Three or more convictions. — Three or more convictions, singularly or in combination of any of the following separate and distinct offenses arising out of separate acts:

a. Manslaughter resulting from the operation of a motor vehicle;

b. Using a motor vehicle during the commission of a felony;

c. Driving or having actual physical control of a motor vehicle while under the influence of intoxicating liquor or of any drug, in violation of § 4177 of this title;

d. Driving a motor vehicle without a license to do so, in violation of § 2701(a), (b) or (c) of this title. Notwithstanding the foregoing, if the judge determines that the sole reason that an individual was convicted of a violation of § 2701(b) of this title was because the individual's driver's license was suspended, revoked or denied for a failure to pay a fine for a traffic offense which is eligible for voluntary assessment (whether or not the voluntary assessment procedure was offered or used), then that violation of § 2701(b) of this title may not be considered to establish habitual offense status pursuant to this paragraph (1)d.;

e. Driving a motor vehicle during a period of suspension or revocation, in violation of § 2756 of this title. Notwithstanding the foregoing, if the judge determines that the sole reason that an individual was convicted of a violation of § 2756 of this title was because the individual's driver's license was suspended or revoked for a failure to pay a fine for a traffic offense which is eligible for voluntary assessment (whether or not the voluntary assessment procedure was offered or used), then such violation of § 2756 of this title may not be considered to establish habitual offense status pursuant to this paragraph (1)e.;

f. Driving a motor vehicle in wilful or wanton disregard for the safety of persons or property, in violation of § 4175 of this title;

g. Failure of the driver of a motor vehicle involved in an accident resulting in apparent damage to property to stop at the scene of such accident and report the driver's identity in violation of § 4201 of this title or otherwise report such accident, in violation of § 4203 of this title;

h. Failure of the driver of a motor vehicle involved in any accident resulting in injury or death to any person to stop at the scene of such accident and report the driver's identity in violation of § 4202 of this title;

i. Knowingly making any false affidavit or swearing or affirming falsely to any manner or thing required by the motor vehicle laws or as to information required in the administration of such laws;

j. Attempting to flee or elude a police officer after having received a visual or audible signal from the police officer as provided in § 4103(b) of this title;

k. Driving any motor vehicle upon the highways of this State contrary to the restrictions placed upon an occupational license during the period of such occupational license as provided in § 2733(i) of this title.

(2) Ten or more convictions. — Ten or more convictions of separate and distinct offenses involving moving violations singularly or in combination, in the operation of a motor vehicle which are required to be reported to the Department and the commission whereof authorizes the Division or the court to suspend or revoke the privilege to operate motor vehicles on the highways of this State for a period of 30 days or more for each offense and such convictions shall include those offenses enumerated in paragraph (1) of this section when taken with and added to those offenses described.

(3) Inclusions. — The offenses included in paragraphs (1) and (2) of this section shall be deemed to include offenses under any federal law, any law of another state or any valid town, city or county ordinance of another state substantially conforming to a state statutory provision.

(4) Conviction. — For the purpose of this chapter, the term "conviction" shall mean a final conviction, a plea of guilty or a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated.

(21 Del. C. 1953 § 2802; 58 Del. Laws, c. 416; 61 Del. Laws, c. 285 § 1; 66 Del. Laws, c. 231 § 1; 69 Del. Laws, c. 390 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 134 § 1; 77 Del. Laws, c. 19 § 1.)

## § 2803 Certification of record to Attorney General.

The Director of the Division of Motor Vehicles shall certify the conviction record, as maintained in the Division of Motor Vehicles, of any person whose record brings that person within the definition of an habitual offender, as defined in § 2802 of this title, to the Attorney General of the State. The certified conviction record or abstract may be admitted in evidence and shall be competent evidence that the person named therein was duly convicted of each offense enumerated therein.

(21 Del. C. 1953 § 2803; 58 Del. Laws, c. 416; 66 Del. Laws, c. 231 §§ 2, 3; 70 Del. Laws, c. 186 § 1.)

## § 2804 Attorney General to initiate court proceeding; petition.

The Attorney General, upon receiving the abstract from the Director of the Division of Motor Vehicles, shall forthwith file a petition against the person named therein in the Court of Common Pleas in and for the county wherein such person resides or, in the case of a nonresident, in the Court of Common Pleas in and for New Castle County. The petition shall request the Court to determine whether or not the person named therein is an habitual offender.

(21 Del. C. 1953 § 2804; 58 Del. Laws, c. 416; 66 Del. Laws, c. 231 § 4; 69 Del. Laws, c. 333 § 5.)

## § 2805 Service of petition; order to show cause.

Upon the filing of the petition, the Court of Common Pleas shall enter an order incorporating by attachment the aforesaid abstract and direct the person named therein to appear at a time scheduled by the Court and show cause why the person should not be barred from operating or driving a motor vehicle on the highways of this State. A copy of the petition, the show cause order and the abstract shall be served upon the person named therein either by personal delivery thereof or by deposit of such in the United States mail in an envelope with postage prepaid, addressed to such person at that person's address as shown by the records of the Division of Motor Vehicles. The service of the petition, order and abstract by mail is complete upon the expiration of 4 days after such deposit of those documents. Service thereof on any nonresident of this State may be made pursuant to § 3112 of Title 10 [repealed], except that any fee for such service shall be taxed against the person named in the petition as a part of the cost of such proceeding.

(21 Del. C. 1953 § 2805; 58 Del. Laws, c. 416; 69 Del. Laws, c. 333 § 6; 70 Del. Laws, c. 136 § 2; 70 Del. Laws, c. 186 § 1; 79 Del. Laws, c. 121 § 1.)

## § 2806 Hearing; procedure.

The matter shall be heard by the Court without a jury. If such person denies that that person was convicted of any offense shown in the abstract necessary for a holding that that person is an habitual offender, and if the Court cannot, on the evidence available to it, determine the issue, the Court may require of the Department certified copies of such records respecting the matter as it may have in its possession. If, upon an examination of such records, the Court is still unable to make such determination it shall certify the decision of such issue to the Court in which such conviction was reportedly made. The Court to which such certification is made shall forthwith conduct a hearing to determine the issue and send a certified copy of its final order determining the issue to the Court of Common Pleas. The Court, at its discretion, may rely upon certified copies of convictions adjudged by courts outside of this State or federal courts or may request such a court to make a determination.

(21 Del. C. 1953 § 2806; 58 Del. Laws, c. 416; 69 Del. Laws, c. 333 § 7; 70 Del. Laws, c. 186 § 1.)

## § 2807 Court's findings; judgment; prothonotary to submit copy.

If the court finds that the person is not the same person named in the abstract, or that the person is not an habitual offender under this chapter, the proceeding shall be dismissed. If the court finds that the person is the same person named in the abstract and that the person is an habitual offender, the court shall by appropriate judgment direct that such person not drive or operate a motor vehicle on the highways of this State and to surrender to the court all licenses or permits to operate a motor vehicle upon the highways of this State. The prothonotary shall forthwith transmit a copy of such judgment together with any licenses or permits surrendered to the Department.

(21 Del. C. 1953 § 2807; 58 Del. Laws, c. 416; 70 Del. Laws, c. 186 § 1.)

## § 2808 Appeals.

An appeal may be taken from any final action or judgment entered under this chapter in the same manner and form as appeals in civil or criminal actions.

(21 Del. C. 1953 § 2808; 58 Del. Laws, c. 416.)

## § 2809 Prohibition against issuance of driver's license or operation of motor vehicle; restoration of privilege.

No license to operate a motor vehicle in this State shall be issued to an habitual offender nor shall a nonresident habitual offender operate a motor vehicle in this State:

(1) For a period of 5 years from the date of the order of the court finding such person to be an habitual offender as defined in § 2802(1) of this title and for a period of 3 years from the date of the order of the court finding such person to be an habitual offender as defined in § 2802(2) of this title;

(2) Until such time as financial responsibility requirements are met; and

(3) Until, upon petition and for good cause shown, the court, at its discretion, restores to such person the privilege to operate a motor vehicle in this State upon such terms and conditions as the court may prescribe, subject to other provisions of law relating to the issuance of operators' licenses.

(4) Unless the Attorney General moves the court for restoration of the privilege to operate a motor vehicle in this State of any person declared to be an habitual offender as defined in § 2802(1) of this title after 3 years from the date of the order of the court declaring the person to be a habitual offender. In the event of such a motion by the Attorney General, the court may in its discretion restore the driving privileges of the person in whole or in part only if the person also meets the obligation set forth in paragraphs (2) and (3) of this section.

(21 Del. C. 1953 § 2809; 58 Del. Laws, c. 416; 70 Del. Laws, c. 136 § 3.)

## § 2810 Driving after judgment prohibited; penalty; jurisdiction.

(a) It shall be unlawful for any person to operate any motor vehicle in this State while the judgment of the Court prohibiting the operation remains in effect. Any person found to be an habitual offender under this chapter who is thereafter convicted of operating a motor vehicle in this State while the judgment of the Court prohibiting such operation is in effect shall for the first offense be fined not more than $1,150 and imprisoned not less than 90 days nor more than 30 months. For each subsequent like offense, be fined not more than $2,300 and imprisonment not less than 180 days nor more than 5 years. The periods of imprisonment required under this section shall not be subject to suspension and if the judgment of the Court prohibiting the operation of a motor vehicle was based in whole or in part upon a conviction of the person for a prior or previous driving under the influence-related conviction or offense as defined in § 4177B(e)(1)a.-d. of this title, or in whole or in part upon a conviction under any criminal statute pertaining to injury or death caused to another person by the person's driving or operation of a vehicle, the period of imprisonment shall, notwithstanding any provision of this section or title to the contrary, be served subject to the provisions of § 4205(c)(2) [repealed] of this title. The Court of Common Pleas shall have original jurisdiction of violations created by this section.

(b) Notwithstanding any other provision of law to the contrary, any offense, other than a felony, which is within the exclusive or original jurisdiction of another court and which may be joined properly with violations created by this section, shall be deemed to be within the original jurisdiction of the Court of Common Pleas.

(21 Del. C. 1953 § 2810; 58 Del. Laws, c. 416; 69 Del. Laws, c. 333 § 8; 70 Del. Laws, c. 136 §§ 4, 5; 70 Del. Laws, c. 528 §§ 1, 2; 74 Del. Laws, c. 106 § 32.)

## § 2811 Determination by the Attorney General.

In any case in which a person is charged with driving a motor vehicle while that person's license, permit or privilege to drive is suspended or revoked or is charged with driving without a license, the court shall require the Attorney General to determine whether such person has been adjudged an habitual offender and, by reason of such judgment, is barred from operating a motor vehicle on the highways of this State. If the Attorney General determines that the person has been so adjudged, the Attorney General shall cause the appropriate criminal charges to be lodged.

(21 Del. C. 1953 § 2811; 58 Del. Laws, c. 416; 70 Del. Laws, c. 186 § 1.)

## § 2812 No existing law modified.

Nothing in this chapter shall be construed as amending, modifying or repealing any existing law of this State or any existing ordinance of any political subdivision relating to the operation of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof or shall be construed so as to preclude the exercise of the regulatory powers of any division, agency, department or political subdivision of this State having the statutory authority to regulate such operation and licensing.

(21 Del. C. 1953 § 2812; 58 Del. Laws, c. 416.)

## § 2813 Computation of number of convictions.

In computing the number of convictions, all convictions must result from offenses occurring subsequent to June 8, 1972, except that convictions for offenses designated in § 2802(1)j. and k. of this title shall only be computed if the offenses giving rise thereto occur subsequent to July 1, 1977.

(21 Del. C. 1953 § 2813; 58 Del. Laws, c. 416; 61 Del. Laws, c. 285 § 2.)

## § 2814 Additional penalty when convicted of an offense which would render an individual an habitual offender.

If any person shall be convicted in this State of an offense which would render that individual an habitual offender as defined in this chapter, the person shall, in addition to the penalty otherwise prescribed by law for such offense, be fined not less than $115 nor more than

$1,150 and confined in jail not less than 30 days nor more than 12 months, provided, that no such sentence shall be executed until the individual is finally adjudged an habitual offender.

(21 Del. C. 1953 § 2814; 58 Del. Laws, c. 416; 68 Del. Laws, c. 9 § 18; 70 Del. Laws, c. 186 § 1.)

# Part II
# Registration, Title and Licenses
# Chapter 29
# MOTOR VEHICLE SAFETY—RESPONSIBILITY
## Subchapter I
## General Provisions

### § 2901 Motor vehicles exempted.

This chapter shall not apply with respect to any motor vehicle owned by the United States, this State or any political subdivision of this State or any municipality therein or with respect to any motor vehicle which is subject to the requirements of §§ 6101 and 6102 of this title; however, § 2904 of this title shall apply to motor vehicles owned by this State.

(61 Del. Laws, c. 292 § 5; 79 Del. Laws, c. 394 § 1.)

### § 2902 Motor vehicle liability policy.

(a) A "motor vehicle liability policy," as said term is used in this chapter, shall mean an owner's or an operator's policy of liability insurance, certified, as provided in § 2948 or § 2949 of this title, as proof of financial responsibility and issued, except as otherwise provided in § 2949 of this title, by an insurance carrier duly authorized to transact business in this State, to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance shall:

(1) Designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(2) Insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: $15,000, because of bodily injury to or death of 1 person in any 1 accident and, subject to said limit for 1 person $30,000, because of bodily injury to or death of 2 or more persons in any 1 accident, and $5,000, because of injury to or destruction of property of others in any 1 accident.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon the operator by law for damages arising out of the use by the operator of any motor vehicle not owned by the operator, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(e) Such motor vehicle liability policy need not insure any liability under any workers' compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance or repair of any such motor vehicle, nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; such policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on the insured's behalf and no violation of such policy shall defeat or void such policy;

(2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

(3) The insurance carrier shall have the right to settle any claim covered by the policy, and, if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in paragraph (b)(2) of this section;

(4) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the chapter shall constitute the entire contract between the parties.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for this chapter.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance .

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of 1 or more insurance carriers which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

(61 Del. Laws, c. 292 § 5; 64 Del. Laws, c. 198 § 8; 70 Del. Laws, c. 186 § 1.)

## § 2903 Certain policies unaffected by chapter.

(a) This chapter shall not apply to or affect policies of automobile insurance against liability required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(b) This chapter shall not apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on the insured's behalf of motor vehicles not owned by the insured.

(61 Del. Laws, c. 292 § 5; 70 Del. Laws, c. 186 § 1.)

## § 2904 Self-insurers.

(a) Upon condition of providing the same benefits available under a required vehicle insurance policy, any person in whose name more than 15 motor vehicles are registered in this State may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Secretary of Transportation as provided in subsection (b) of this section.

(b) The Secretary of Transportation may, in the Secretary's discretion, approve an application for self-insurance from such a person provided the following is submitted in satisfactory form:

(1) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by § 2118 of this title;

(2) Evidence that appropriate provisions exist for prompt and efficient administration of all claims, benefits and obligations required by § 2118 of this title; and

(3) Evidence that reliable financial arrangements, deposits or commitments exist providing assurance for payment of tort liabilities or basic reparation benefits, or both, and all other obligations imposed by this chapter substantially equivalent to those afforded by a policy of insurance complying with § 2118 of this title.

(c) Upon not less than 5 days' notice and a hearing pursuant to such notice, the Secretary of Transportation may, upon reasonable grounds, withdraw this approval of self-insurance. Failure to pay any valid claim within 60 days of its submission or any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the immediate withdrawal of approval of self-insurance.

(61 Del. Laws, c. 292 § 5; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 63, 64, 65.)

## § 2905 Assigned risks.

(a) Any applicant for registration who in good faith has applied to 2 insurance companies for a policy of insurance or surety bond under this chapter but who is unable to procure such insurance from said companies shall thereupon notify the Insurance Commissioner, in writing, and the Insurance Commissioner upon receipt of said notice shall thereupon assign said application to 1 of the insurance companies handling such insurance and doing business in this State. Such insurance company shall promptly issue a policy at the rate then prevailing for such policies, adding an automatic surcharge of 10 percent over and above such rate then in force and effect, for similar policies of insurance. Surcharges of 50 percent and 25 percent shall be added to the then prevailing rate for such policies under the following circumstances:

(1) Fifty percent surcharge. — If the certificate is required for a conviction of:

a. Driving a motor vehicle while intoxicated;

b. Failing to stop and report when involved in an accident; or

c. Homicide or assault arising out of the operation of a motor vehicle.

(2) Twenty-five percent surcharge. — If the certificate is required for a conviction of:

a. Driving a motor vehicle at an excessive rate of speed where an injury to person or damage to property actually results therefrom; or

b. Driving a motor vehicle in a reckless manner where an injury to person or damage to property actually results therefrom.

(b) All such assignments may carry an expense charge of 5 percent.

(c) No assignment may be made or surcharge added solely because a driver license is denied or suspended in accordance with § 516(g) or § 2216 of Title 13.

(d) The surcharges specified in this section shall be limited for 3 years. The Insurance Commissioner shall notify the Secretary of Transportation of such assignments and the rate at which such assignments are made and the registration shall then be issued.

(61 Del. Laws, c. 292 § 5; 70 Del. Laws, c. 452 § 8; 71 Del. Laws, c. 216 § 86; 74 Del. Laws, c. 110 § 66.)

### § 2906 Cancellation or termination of insurance policy.

(a) Any insurance company may cancel any motor vehicle liability policy or bond, except such risks as may be assigned to it as provided in § 2905 of this title, for any reason it may deem proper. Such insurance company shall refund to its insured the unearned portion of the premium paid by the insured.

(b) Any insurance company may cancel any motor vehicle liability policy or bond issued to any person under § 2905 of this title by giving 30 days' notice thereof to the Secretary of Transportation provided the insured:

(1) Is not licensed to operate a motor vehicle under the laws of this State;
(2) Is a person with mental or physical disabilities rendering it unsafe for the insured to operate a motor vehicle upon the highways;
(3) Is, in the opinion of the Secretary of Transportation, an habitually reckless or negligent driver of a motor vehicle;
(4) Is an habitual drunkard;
(5) Is addicted to the use of narcotic drugs;
(6) Is engaged in an unlawful or illegal occupation;
(7) Has refused or failed to pay the premiums due on such motor vehicle policy or bond; or
(8) Has refused or failed to cooperate with the insurance company as stated in such insurance policy or bond.

(61 Del. Laws, c. 292 § 5; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 67, 68; 79 Del. Laws, c. 371 § 24.)

### § 2907 [Reserved.]

### § 2908 Administration and enforcement.

The Secretaries of Safety and Homeland Security and/or Transportation, in keeping with their respective responsibilities, shall administer and enforce this chapter. The State Police shall assist the Secretary of Safety and Homeland Security in enforcing this chapter.

(61 Del. Laws, c. 292 § 5; 74 Del. Laws, c. 110 § 69.)

### § 2909 Availability of other remedies.

Nothing in this chapter shall prevent the plaintiff in any action at law from relying for relief upon the other processes provided by law.

(61 Del. Laws, c. 292 § 5.)

### § 2910 Rights of bona fide transferees and lienors unaffected.

This chapter shall not prevent the owner of a motor vehicle, the registration of which has been suspended hereunder, from effecting a bona fide sale of such motor vehicle to another person whose rights or privileges are not suspended under this chapter or prevent the registration of such motor vehicle by such transferee. This chapter shall not in any way affect the rights of any conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another as owner who becomes subject to this chapter.

(61 Del. Laws, c. 292 § 5.)

### § 2911 Construction with other laws.

This chapter shall in no respect be considered as a repeal of the state motor vehicle laws but shall be construed as supplemental thereto.

(61 Del. Laws, c. 292 § 5.)

### § 2912 Uniformity of interpretation.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

(61 Del. Laws, c. 292 § 5.)

### § 2913 Insurance for automobile transports.

All automobile transports, interstate or intrastate, shall be insured against personal injury loss and property damage loss in keeping with requirements of the Interstate Commerce Commission relating to intrastate automobile transport carriers.

(64 Del. Laws, c. 207 § 4.)

## Subchapter II

## Deposit of Security

### §§ 2921 -2926. Deposit of security following accident; suspension of license and registration; exceptions; form, amount, custody, disposition and return of security; policy or bond as security; duration of suspension of license and registration.

(Repealed by 60 Del. Laws, c. 433 § 4, eff May 28, 1976.)

### § 2927 Security required of nonresidents involved in accidents in this State.

(a) Any nonresident of this State who is involved in any accident through the operation of a motor vehicle wherein there is a damage to property or person shall be liable to damages and shall be required to furnish sufficient security for the payment of damages sustained by any person, firm or corporation before the motor vehicle of the nonresident or the contents thereof are removed from out of the State.

(b) The security required under subsection (a) of this section shall be double the estimated amount of the damages as determined by any reputable automobile repair person of the State, and shall be posted with any justice of the peace in the State.

(41 Del. Laws, c. 224 §§ 1, 2; 21 Del. C. 1953 § 2927; 70 Del. Laws, c. 186 § 1.)

## Subchapter III

## Proof of Future Responsibility

### § 2941 Court reports on nonpayment of judgments.

(a) Whenever any person fails to satisfy any judgment within 60 days of its issuance, the court that issued the judgment shall, upon motion of the holder of the judgment, forward a certified copy of such judgment to the Secretary of Transportation.

(b) If the defendant named in any certified copy of a judgment reported to the Secretary of Transportation is a nonresident, the Secretary of Transportation shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses of the state of which the defendant is a resident.

(c) For purposes of this subchapter "judgment" shall mean any civil judgment for money damages arising out of an event or transaction involving motor vehicle accident.

(Code 1935 § 5712B; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2941; 57 Del. Laws, c. 670 § 12A; 60 Del. Laws, c. 433 § 5; 66 Del. Laws, c. 274 § 1; 74 Del. Laws, c. 110 § 70; 76 Del. Laws, c. 265 §§ 1, 2.)

### § 2942 Suspension of license for nonpayment of judgments.

(a) The Secretary of Transportation, upon receipt of a certified copy of a judgment, shall forthwith suspend the license and any nonresident's operating privilege of any person against whom such judgment was rendered, except as otherwise provided in this section and in § 2945 of this title.

(b) The Secretary of Transportation may allow license or nonresident operating privileges to a judgment debtor, providing there is no default in the payment of such judgment or that installments thereof prescribed in § 2945 of this title are not in default, and providing the judgment debtor has furnished proof of financial responsibility.

(c) Any person whose license or nonresident's operating privilege has been suspended or is about to be suspended or becomes subject to suspension under this chapter may be relieved from the effect of such judgment as prescribed in this chapter, by filing with the Secretary of Transportation an affidavit stating that at the time of the accident upon which such judgment has been rendered the affiant was insured, that the insurer is liable to pay such judgment and the reason, if known, why such insurance company has not paid such judgment. Such person shall also file the original policy of insurance or a certified copy thereof, if available, and such other documents as the Secretary of Transportation may require to show that the loss, injury or damage, for which such judgment was rendered, was covered by such policy of insurance. If the Secretary of Transportation is satisfied from such papers that such insurer was authorized to issue such policy of insurance at the time and place of issuing such policy and that such insurer is liable to pay such judgment, at least to the extent and for the amounts required in this chapter, the Secretary of Transportation shall not suspend such license or nonresident's operating privilege, or, if already suspended, shall reinstate them.

(d) In the event that a person has had that person's license suspended for nonpayment of a judgment under this section, the Department after the lapse of 10 years from the entry of the judgment may issue a new license provided that such person shall have produced proof of liability insurance coverage or other evidence of financial responsibility, in an amount and of such character as shall be satisfactory to the Secretary of Transportation.

(Code 1935 § 5712C; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2942; 55 Del. Laws, c. 406; 57 Del. Laws, c. 89; 57 Del. Laws, c. 670 § 12A; 60 Del. Laws, c. 433 §§ 6-8; 66 Del. Laws, c. 274 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 71-74.)

### § 2943 Duration of suspension of license.

The license and nonresident's operating privilege suspended pursuant to § 2942 of this title shall remain suspended and shall not be renewed nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is satisfied in full or to the extent provided in this subchapter, and until such person gives proof of financial responsibility subject to the exemptions stated in §§ 2942 and 2945 of this title.

(Code 1935 § 5712D; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2943; 60 Del. Laws, c. 433 § 9; 66 Del. Laws, c. 274 § 1.)

### § 2944 Satisfaction of judgments.

The judgments referred to in this subchapter shall, for the purposes of this chapter only, be deemed satisfied:

(1) When $15,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or

death of 1 person as the result of any 1 accident; or

(2) When, subject to such limit of $15,000 because of bodily injury to or death of 1 person, the sum of $30,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 2 or more persons as the result of any 1 accident; or

(3) When $10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any 1 accident.

Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

(Code 1935 § 5712E; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2944; 50 Del. Laws, c. 456 § 3; 61 Del. Laws, c. 292 § 6; 64 Del. Laws, c. 198 §§ 4-6.)

## § 2945 Installment payment of judgments; default.

(a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, at its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(b) The Secretary of Transportation shall not suspend a license or a nonresident's operating privilege for nonpayment of a judgment when the judgment debtor gives proof of financial responsibility and obtains an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

(c) In the event the judgment debtor fails to pay any installment as specified by such order, the Secretary of Transportation, upon notice of such default, shall forthwith suspend the license or nonresident's operating privilege of the judgment debtor until such judgment is satisfied as provided in this subchapter.

(Code 1935 § 5712F; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2945; 57 Del. Laws, c. 670 § 12A; 66 Del. Laws, c. 274 § 1; 74 Del. Laws, c. 110 §§ 75, 76.)

## § 2946 [Reserved.]

## § 2947 Methods of giving proof.

Proof of financial responsibility when required under this chapter, may be given by filing a:

(1) Certificate of insurance as provided in § 2948 or § 2949 of this title; or

(2) Bond as provided in § 2950 of this title; or

(3) Certificate of deposit of money or securities as provided in § 2951 of this title; or

(4) Statement from an insurance carrier certifying that there is in effect a motor vehicle liability policy covering the operator or vehicle as required by this chapter.

(Code 1935 § 5712H; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2947; 62 Del. Laws, c. 77 § 2.)

## § 2948 Certificate of insurance as proof.

(a) Proof of financial responsibility may be furnished by filing with the Secretary the written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such certificate.

(Code 1935 § 5712I; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2948.)

## § 2949 Certificate furnished by nonresident as proof.

(a) The nonresident owner of a motor vehicle not registered in this State may give proof of financial responsibility by filing with the Secretary a written certificate or certificate of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or, if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to this chapter, and the Secretary shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

(1) Such insurance carrier shall execute a power of attorney authorizing the Secretary to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State;

(2) Such insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in this State, and which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the Secretary shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

(Code 1935 § 5712J; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2949; 57 Del. Laws, c. 670 § 12A.)

### § 2950 Bond as proof.

(a) Proof of financial responsibility may be evidenced by the bond of a surety company authorized to transact business within this State or a bond with at least 2 individual sureties each owning real estate within this State and together having equities equal in value to at least twice the amount of such bond. The real estate shall be scheduled in the bond approved by a judge of a court of record, and the bond shall be conditioned for payment of the amounts specified in the definition of "proof of financial responsibility" contained in § 101 of this title. Such bond shall be filed with the Secretary of Transportation and shall not be cancellable except after 10 days' written notice to the Secretary of Transportation. Such bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the Secretary of Transportation in the office of the prothonotary of any county in the State wherein any such real estate is located. The prothonotary shall enter such lien in an appropriate docket kept by the prothonotary for that purpose.

(b) If such judgment rendered against the principal on such bond is not satisfied within 60 days after it has become final, the judgment creditor may, for the judgment creditor's own use and benefit and at the judgment creditor's sole expense, bring an action or actions in the name of the State against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond in accordance with Chapter 75 of Title 10.

(Code 1935 § 5712N; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2950; 57 Del. Laws, c. 670 § 12A; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 77.)

### § 2951 Money or securities as proof.

(a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with the State Treasurer $40,000 in cash or securities such as may legally be purchased by savings banks or for trust funds of a market value of $40,000. The State Treasurer shall not accept any such deposit nor issue a certificate therefor and the Secretary of Transportation shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) Such deposit shall be held by the State Treasurer to satisfy, in accordance with this chapter, any execution on a judgment issued against such person making the deposit for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

(Code 1935 § 5712O; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2951; 50 Del. Laws, c. 456 § 4; 57 Del. Laws, c. 670 § 12A; 64 Del. Laws, c. 198 § 7; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 78.)

### § 2952 [Reserved.]

### § 2953 Substitution of proof.

The Secretary of Transportation shall consent to the cancellation of any bond or certificate of insurance or the Secretary of Transportation shall direct the return of, and the State Treasurer shall return, any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

(Code 1935 § 5712Q; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2953; 57 Del. Laws, c. 670 § 12A; 74 Del. Laws, c. 110 § 79.)

### § 2954 Requirement of other proof.

Whenever any proof of financial responsibility filed under this chapter no longer fulfills the purposes for which it is required, the Secretary of Transportation shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license or the nonresident's operating privilege pending the filing of such other proof.

(Code 1935 § 5712R; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2954; 57 Del. Laws, c. 670 § 12A; 66 Del. Laws, c. 274 § 1; 74 Del. Laws, c. 110 § 80.)

### § 2955 [Reserved.]

## Subchapter IV

## Penalties

### § 2971 Penalties.

(a) A person whose license or nonresident's operating privilege suspended or revoked under this chapter drives during such suspension or

revocation any motor vehicle upon any highway, except as permitted under this chapter, shall be fined not more than $575, or imprisoned not more than 6 months or both.

(b) Whoever wilfully fails to return the license as required in § 2972 of this title shall be fined not more than $575, or imprisoned not more than 30 days or both.

(c) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be fined not more than $575, or imprisoned not more than 90 days or both.

(Code 1935 § 5712V; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2971; 62 Del. Laws, c. 77 § 5; 66 Del. Laws, c. 274 §§ 1, 2; 68 Del. Laws, c. 9 § 19; 70 Del. Laws, c. 186 § 1.)

## § 2972 Surrender of license.

Any person whose license is suspended as provided in this chapter or whose policy of insurance or bond when required under this chapter is canceled or terminated or who neglects to furnish other proof upon request of the Secretary of Transportation shall immediately return the person's license to the Secretary of Transportation. If any person fails to return to the Secretary of Transportation the license as provided herein, the Secretary of Transportation shall forthwith direct any peace officer to secure possession thereof and to return the same to the Secretary of Transportation.

(Code 1935 § 5712U; 48 Del. Laws, c. 359 § 2; 21 Del. C. 1953 § 2972; 57 Del. Laws, c. 670 § 12A; 66 Del. Laws, c. 274 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 81.)

# Part II
# Registration, Title and Licenses
# Chapter 31
# NONDRIVER IDENTIFICATION CARDS

## § 3101 Identification cards.

Every person residing in the State who desires to obtain an identification card shall apply to the Division of Motor Vehicles.

(21 Del. C. 1953 § 3101; 58 Del. Laws, c. 516; 65 Del. Laws, c. 37 § 1.)

## § 3102 Application.

(a) Every application for an identification card shall be made on an application form furnished by the Division. The original application shall be verified by the applicant before a person authorized to administer oaths.

(b) Every application shall state the name, Social Security number, if eligible, except as otherwise provided in § 2711 of this title, date of birth, sex and residence address of the applicant and whether or not the applicant is licensed by the State to operate a motor vehicle.

(c) The Division of Motor Vehicles shall provide notice of the obligation to register pursuant to § 4120 of Title 11 to each new resident applicant for an identification card. Every applicant for a state identification card shall sign an acknowledgment provided by the Division that the applicant has received notice that registration in compliance with § 4120 of Title 11 is mandatory for any person who has been convicted in any other state of any offense which, if committed or attempted in this State, would have been punishable as 1 or more of the offenses referenced in § 4120(a) of Title 11, and that such registration must occur within 7 days of coming into any county, city or town in which the applicant temporarily resides or is domiciled for that length of time.

All such acknowledgments shall be kept as permanent records by the Division in a format approved by the Director of Historical and Cultural Affairs which may include storage on microfiche or other nonpaper forms of permanent retention.

(d)(1) Any male applicant who applies for an identification card or a renewal of any such document and who is at least 18 years of age but less than 26 years of age shall be registered in compliance with the requirements of § 3 of the "Military Selective Service Act," 50 U.S.C. App. sec. 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in this subsection to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that he is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that his signature constitutes consent to registration with the selective service system, if he is not already registered.

(21 Del. C. 1953 § 3102; 58 Del. Laws, c. 516; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 397 § 22; 71 Del. Laws, c. 133 § 3; 72 Del. Laws, c. 335 §§ 3, 5; 72 Del. Laws, c. 485 § 3.)

## § 3103 Issuance fee; renewal; qualifications.

(a) Upon receipt of the application and a fee of $20 the Division shall issue an identification card which shall expire and be renewable on the fourth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date be February 29, and in which event the identification card will expire on February 28 every fourth year. A permanent resident foreign national may be issued a full 4-year identification card. However, an identification card issued to a temporary foreign national must be limited to the period of time that the temporary foreign national is authorized to be in the United States.

(b) On or near the date of expiration of an identification card, each holder of such a card desiring renewal of such card shall appear at a Division of Motor Vehicles office in the county in which the holder of the card resides and be photographed by the Department of Transportation.

(c) No identification card shall be issued pursuant to subsection (a) of this section to any nonresident of the State.

(21 Del. C. 1953 § 3103; 58 Del. Laws, c. 516; 65 Del. Laws, c. 37 §§ 2, 3; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 82; 76 Del. Laws, c. 76 § 26; 76 Del. Laws, c. 126 § 2.)

## § 3104 Contents of identification cards.

(a) Every identification card shall bear a distinguishing number assigned to the holder and shall contain the name, date of birth, address, a photograph of the holder taken by the Department of Transportation and a brief description of the holder for purposes of identification. The identification card holder's Social Security number is used for identification purposes and shall be maintained in the Division of Motor Vehicles' record system.

(b) Every identification card shall bear in conspicuous print the words: "THIS IS NOT A DRIVER'S LICENSE."

(21 Del. C. 1953 § 3104; 58 Del. Laws, c. 516; 71 Del. Laws, c. 133 § 4; 72 Del. Laws, c. 335 § 4; 74 Del. Laws, c. 110 § 83; 75 Del. Laws, c. 185 §§ 3, 4.)

## § 3105 Issuance of duplicate cards; fee.

(a) In the event that any identification card issued under this chapter is lost or destroyed, the person to whom it was issued may apply to the Division for the issuance of a duplicate or substitute identification card upon executing such forms as may be required by the Division and upon furnishing proof satisfactory to the Division that such identification card has been lost or destroyed.

(b) Upon receipt of the application and a fee of $5.00, the Division shall issue a duplicate identification card.

(21 Del. C. 1953 § 3105; 58 Del. Laws, c. 516; 67 Del. Laws, c. 260 § 1; 67 Del. Laws, c. 271 § 1.)

## § 3106 Signature.

Every holder of an identification card shall write the holder's usual signature with pen and ink in the space provided for that purpose on the card and such card shall not be valid until the card is so signed.

(21 Del. C. 1953 § 3106; 58 Del. Laws, c. 516; 70 Del. Laws, c. 186 § 1.)

## § 3107 False statements.

Whoever makes any false affidavit or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter to be sworn to or affirmed is guilty of perjury and shall be fined or imprisoned as the law provides.

(21 Del. C. 1953 § 3108; 58 Del. Laws, c. 516; 66 Del. Laws, c. 416 § 3.)

## § 3108 Penalties.

(a) Whoever violates this chapter shall for the first offense be fined not less than $25 nor more than $115. For each subsequent like offense, the person shall be fined not less than $50 nor more than $230, or imprisoned not less than 10 nor more than 30 days, or both. Justices of the peace shall have jurisdiction over violations of this chapter.

(b) This section shall not apply to violations defined as perjury under § 3107 of this title.

(21 Del. C. 1953 § 3109; 58 Del. Laws, c. 516; 65 Del. Laws, c. 503 § 14; 66 Del. Laws, c. 416 § 3; 68 Del. Laws, c. 9 § 20; 70 Del. Laws, c. 186 § 1.)

# Part III
# Operation and Equipment
# Chapter 41
# RULES OF THE ROAD
## Subchapter I
## Obedience to and Effect of Traffic Laws

### § 4101 Provisions refer to vehicles upon highways; exceptions; powers of local authorities.

(a) The provisions of this title relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section.

(2) That subchapter IX of this chapter shall apply upon highways and elsewhere throughout the State.

(3) That subchapter VIII of this chapter and § 4164 of this title shall apply upon highways and elsewhere throughout the State, except that subchapter VIII of this chapter and § 4164 of this title shall not apply upon any nonresidential, commercial property. For the purposes of this paragraph, "elsewhere" shall mean only those areas regulated by traffic-control devices which have been reviewed and approved as acceptable for the area by the Delaware Department of Transportation.

(4) Upon application by a majority of persons having a property interest in a private road or way upon which motor vehicles are driven, the appropriate agency or officer of any town, city or county in which such private property is located may petition the Department of Safety and Homeland Security (hereinafter "Department") in a manner prescribed by the Department, requesting the Department assume jurisdiction over such private property. Upon acceptance of jurisdiction over the private property, the Department shall, by written notice, so notify each governmental body and property owner affected and shall supply copies of such notice to all appropriate courts and law-enforcement agencies. One week following the official acceptance of such jurisdiction, all provisions of Title 17 and this title shall apply to the affected private property. The installation and maintenance of all traffic-control devices authorized by the Department of Transportation shall be undertaken by the owners at no cost to the State.

(b) Local authorities, except as expressly authorized by law, shall not enact or enforce any rules or regulations contrary to this chapter. Traffic ordinances and regulations adopted by local authorities, and substantially conforming to the sections of this chapter, shall have the same force and effect as the traffic laws of this title. Whenever any provision of this title refers to a specific section of this title, such section shall be deemed to include substantially conforming ordinances and regulations enacted by local authorities. The court's notice of conviction for violating a local ordinance or regulation that substantially conforms to this title, when included in the person's driving record, shall be deemed to be equivalent to a violation of the state statute to which it conforms. This section shall not be deemed to affect the jurisdiction for violations of local traffic ordinances or regulations nor the fine to be imposed for such a violation. Local authorities may regulate the use of the highways by processions or assemblages. Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use nor requiring other or different or additional conditions than those specified in this chapter or otherwise regulating such use as seems best to such owner.

(c) The authority to authorize, maintain, install and remove all traffic-control devices necessary to implement this title is provided to the Department of Transportation and to local authorities in their respective jurisdictions by Chapter 1 of Title 17. Unless otherwise provided in this title, the authorities granted are uniformly applicable to all sections of this title.

(d) Liability for failure of owner to comply with traffic light signals. —

(1) The Department of Public Safety and/or the governing body of any city or any county may provide, by regulation or ordinance, for the establishment of a program imposing monetary liability on the owner of a motor vehicle for failure to comply with traffic light signals in accordance with the provisions of this subsection. This subsection allows the Department of Transportation and/or the governing body of any city or county to install and operate traffic light signal violation monitoring systems; provided however, that in the event the installation other than by the Department of Transportation, the Department of Transportation must first approve such installation using the same recognized safety and accident criteria which the Department of Transportation uses to determine new locations; and provided further that the duration of the yellow light change interval, at any intersection where a traffic control photographic system or other traffic light signal violation monitoring system is in use, must be no less than the yellow light change interval duration specified in the design manual developed by the Department of Transportation. All existing locations erected without the Department of Transportation prior approvals shall be reviewed by the Department of Transportation using same recognized safety and accident criteria used to authorize new locations. Any location which fails to meet the criteria shall be removed upon end of the contract with the camera operator vendor.

(2) Jurisdictions operating an Electronic Red Light Safety Program can only issue right turn on red violations if there is safety and crash data to support it as determined by the Department of Transportation.

(3) Liability — The owner or operator of a vehicle which has failed to comply with a traffic light signal, as evidenced by information

obtained from a traffic light signal violation monitoring system, shall be subject to a civil or administrative assessment not to exceed $110; provided, however, that the city or county may provide for an additional assessment not to exceed $10 if the civil or administrative assessment is not paid within 20 days, which assessment may be increased to an amount not to exceed $20 if the assessment is not paid within 45 days, and may be increased to an amount not to exceed $30 if the assessment is not paid within 90 days. Court costs or similar administrative fees not to exceed $35 may also be assessed against an owner or operator who requests a hearing to contest the violation and is ultimately found or pleads responsible for the violation or who fails to pay or contest the violation in a timely manner. No assessments and court costs other than those specified in this subsection may be imposed. A violation for which a civil assessment is imposed under this subsection shall not be classified as a criminal offense and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance. Assessments collected as a result of a traffic control signal monitoring system shall be paid to the city or county which controlled the monitoring system, or the General Fund for personnel, after first being applied to reimburse the applicable state agencies for their costs of administering such systems.

(4) Definitions — For purpose of this subsection only:

a. "Owner" means the registered owner of such vehicle on record with this or any other state; provided, however, that in the event that the owner is a vehicle leasing company, the "owner," for purposes of this subsection, shall mean the person shown on the records to be the lessee of such vehicle. Vehicle rental companies are excluded from the definition of "owner."

(5) Summons and notice of violation — Any nonresident owner or operator of any motor vehicle which is operated or driven on the public streets, roads, turnpikes or highways of this State is deemed to have submitted to the jurisdiction of the Delaware courts for purposes of this subsection. Notwithstanding any other provision of the Delaware Code, a summons for a violation of this subsection may be executed by mailing to any Delaware resident or nonresident by first class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Division of Motor Vehicles of this or any other state, as appropriate. Collection actions, including default judgment and execution, may proceed based upon jurisdiction obtained through the mailing by first class mail of a summons and subsequent court notices pursuant to this subsection. Every initial mailing shall include the:

a. Name and address of the owner of the vehicle;

b. Registration number of the motor vehicle involved in the violation;

c. Violation charges;

d. Location where the violation occurred;

e. Date and time of the violation;

f. Copies of 2 or more photographs, or microphotographs or other recorded images, taken as proof of the violation;

g. Amount of the civil assessment imposed and the date by which the civil assessment should be paid;

h. Information advising the summonsed person of the matter, time and place by which liability as alleged in the notice may be contested, and warning that the failure to pay the civil assessment or to contest liability in a timely manner is an admission of liability and may result in a judgment being entered against the summonsed person and/or the denial of the registration or the renewal of the registration of any of the owner's vehicles; and

(6) Payment by voluntary assessment — Persons electing to pay by voluntary assessment shall make payments to the entity designated on the summons for payment. Such entity may be the Justice of the Peace Court or an entity designated by the Court, the Department of Safety and Homeland Security, or by the city or county in which the traffic light was located. Procedures for payment under this subsection shall be as provided by court rule or policy directive of the Justice of the Peace Court, by regulation of the Department of Safety and Homeland Security, or by regulation, code or ordinance of the applicable city or county, and shall be in lieu of the procedures set forth in § 709 of this title.

(7) Procedures to contest the violation — A person receiving the summons pursuant to this subsection may request a hearing to contest the violation by notifying, in writing, the entity designated on the summons within 20 days of the date. Upon receipt of a timely request for a hearing a civil hearing shall be scheduled and the defendant notified of the hearing date by first class mail. A civil hearing shall be held by the Justice of the Peace Court or such other entity as designated by the Department of Safety and Homeland Security or applicable county or city. The hearing may be informal and shall be held in accordance with Justice of the Peace Court rules or policy directive, regulation of the Department of Safety and Homeland Security, or by regulation, code or ordinance of the applicable city or county. Additional administrative collection processes may be established by court rule, policy directive, regulation, code or ordinance, as applicable. Costs for such hearing shall not be assessed against the prevailing party. There shall be no right of transfer to the Court of Common Pleas.

(8) Failure to pay or successfully contest the violation — If the owner or an operator identified by the owner fails to pay the civil penalty by voluntary assessment, request a hearing within the required time or submit an affidavit stating that the owner or operator identified was not the driver, the Division of Motor Vehicles may refuse to renew the registration of the owner's vehicle operated at the time the summons was issued. If the owner or an operator identified by the owner is found responsible at a hearing and fails to pay as ordered by the Court, or requests a hearing and fails to appear, the Division of Motor Vehicles shall suspend the license of the owner or operator.

(9) Proof of violation — Proof of a violation of this subsection shall be evidenced by information obtained from a traffic light signal

violation monitoring system authorized pursuant to this subsection. A certificate, or facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic light signal violation monitoring system shall constitute prima facie evidence of the facts contained therein, if the certificate, or facsimile thereof, is sworn to or affirmed by a technician employed by a locality authorized to impose assessments pursuant to this subsection, or a technician employed by a state agency or entity designated by a state agency for the purposes of this section. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to regulation, ordinance or other law adopted pursuant to this subsection.

(10) Presumptions — The owner of any vehicle found to be in violation of this subsection shall be held prima facie responsible for such violation in the same manner as provided for under § 7003 of this title, unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner:

a. Furnishes an affidavit by regular mail to the entity indicated on the summons that the owner was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle, or attaches a certified copy of a police report showing that the vehicle or license plate or plates thereof had been reported to the police as stolen prior to the time of the alleged violation of this subsection; or

b. Provides proof in court or to the entity handling the administrative appeal process that the owner was not the operator of the vehicle at the time of the alleged violation or that the owner failed to comply with the traffic signal either in order to yield the right-of-way to an emergency vehicle or as part of a funeral procession.

(11) Notwithstanding any other provision in this section, if the motor vehicle which is found by the traffic light signal violation monitoring system to have failed to comply with a traffic light signal is commercially licensed, then the owner of that vehicle shall be sent notice of the date, time and location of the violation with 2 photographs thereof. Within 10 days of the receipt of said notice, the owner of the vehicle shall provide the law-enforcement agency which has issued the summons with the name and address of the driver of the vehicle at the date, time and location of the violation and, within the same time period, shall provide the driver of the vehicle with the photographs of the violation. After receipt by the law-enforcement agency which has issued the summons of the name and address of the driver of the vehicle at the time of the violation, the driver of the vehicle shall be prima facie responsible for such violation in the same manner as provided for under § 7003 of this title and shall be subject to the provisions of this section. Failure of the owner of the vehicle found to be in violation of subsection (d) to provide the name and address of the driver at the time of the violation within the period prescribed shall cause the owner to be held responsible as set forth in paragraph (d)(5) of this section.

b. "Traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces 2 or more photographs, or 2 or more microphotographs, or a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this subsection.

i. Notice of the summonsed person's ability to rebut the presumption that the summonsed person was the operator of the vehicle at the time of the alleged violation and the means for rebutting such presumption.

Upon receiving a record of failure to comply, the Clerk may enter a civil traffic judgment against the owner or operator in the amount of the civil penalty, costs, and any applicable penalty amounts, giving credit for any amount paid. Such judgment may, upon motion, be transferred by the Court to the civil docket. Any judgment so transferred may be executed and enforced or transferred in the same manner as other judgments of the Court and the Division of Public Safety or its designee, or the applicable city or county shall have authority to seek such execution, enforcement or transfer.

A summons may be issued to a person identified by affidavit or evidence in court as the actual operator of the vehicle shown to have violated the traffic light signal. There shall be a presumption that the person so identified was the driver. The presumption may be rebutted as described in this subsection.

(12) Any person found responsible for a civil traffic offense shall have a right of appeal only in those cases in which the civil penalty imposed exceeds $100, upon giving bond with surety satisfactory to the judge before whom such person was found responsible, such appeal to be taken and bond given within 15 days from the time of the finding of responsible. Such appeal shall operate as a stay or supersedeas 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. Additional penalty assessments for late payment/response pursuant to paragraph (d)(3) of this section shall be included in determining the amount of the civil penalty for purposes of determining the right to an appeal.

(21 Del. C. 1953 § 4101; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 58 Del. Laws, c. 515 § 1; 60 Del. Laws, c. 701 § 8; 63 Del. Laws, c. 449 § 1; 68 Del. Laws, c. 390 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 89 §§ 1, 2; 73 Del. Laws, c. 204 § 1; 74 Del. Laws, c. 66 § 1; 74 Del. Laws, c. 110 §§ 84, 85, 138; 74 Del. Laws, c. 301 § 1; 75 Del. Laws, c. 56 §§ 1-12; 76 Del. Laws, c. 79 §§ 118(1), (2); 77 Del. Laws, c. 281 § 1; 80 Del. Laws, c. 299 § 126.)

## § 4102 Required obedience to traffic laws.

It is unlawful for any person to do any act forbidden or fail to perform any act required in this chapter.

(21 Del. C. 1953 § 4102; 54 Del. Laws, c. 160 § 1; 77 Del. Laws, c. 60 § 1.)

## § 4103 Obedience to authorized persons directing traffic.

(a) No person shall wilfully fail or refuse to comply with any lawful order or direction of any police officer or authorized flagperson or fire police officer or uniformed adult school crossing guard invested by law with authority to direct, control or regulate vehicle and pedestrian traffic. This subsection shall not operate to relieve a driver of the duty to operate the driver's vehicle with due regard to the safety of all persons using the highway.

(b) Any driver who, having received a visual or audible signal from a police officer identifiable by uniform, by motor vehicle or by a clearly discernible police signal to bring the driver's vehicle to a stop, operates the vehicle in disregard of the signal or interferes with or endangers the operation of the police vehicle or who increases speed or extinguishes the vehicle's lights and attempts to flee or elude the police officer shall be guilty of a class G felony, with a minimum fine of $575 which may not be suspended. Upon receiving notice of such conviction the Secretary, at the Secretary's discretion, may forthwith revoke the operator's or chauffeur's license of the person so convicted for a period of 2 years. For each subsequent like offense, the person shall be guilty of a class E felony, with a minimum fine of $1,150 which may not be suspended. Upon receiving a court notice of conviction for a subsequent like offense, the Secretary shall revoke the operator's or chauffeur's license for an additional 3-year period. It shall be an affirmative defense for this section if the driver proceeds at or below the posted speed limit to a safe location or, at nighttime to a well-lit reasonable location and stops the vehicle at that point that the driver is not guilty of this section.

(c) If any vehicle is witnessed by a police officer to be in violation of subsection (b) of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the persons in whose name such vehicle is registered, to whom a rental vehicle is leased or whose name appears on a company's records as driving a company vehicle, committed such violation of subsection (b) of this section.

(21 Del. C. 1953 § 4103; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 141; 57 Del. Laws, c. 670 § 13B; 60 Del. Laws, c. 701 § 9; 64 Del. Laws, c. 164 § 1; 68 Del. Laws, c. 9 § 21; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 289 §§ 1-3.)

## § 4104 Persons riding animals or driving animal-drawn vehicles.

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

(21 Del. C. 1953 § 4104; 54 Del. Laws, c. 160 § 1.)

## § 4105 Persons and vehicles working on highways and utilities; exceptions.

(a) Unless specifically made applicable, the provisions of this title, except those contained in subchapter IX of this chapter, shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon a highway or in work upon utility facilities along a highway, so long as proper traffic-control devices are posted, but shall apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by traffic-control devices.

(c) The driver of a vehicle shall yield the right-of-way to any authorized vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of the Secretary of Public Safety.

(d) Traffic-control devices shall be used as required in the standards adopted under § 147 of Title 17. Failure to comply with this section shall be cause for immediate cessation of operations in the affected area and the immediate reopening of the highway in a safe manner.

(e) Failure to comply with the lawful order to effect immediate cessation of operations and the reopening of the highway shall subject the violator to a fine of not less than $115 nor more than $575.

(f)(1) The driver of a vehicle who violates any of the following sections of this title shall be fined not less than double the enumerated amount for a first offense when the violation occurs within any highway construction or maintenance area indicated by traffic-control devices:

a. Section 4102 of this title relating to obedience to traffic laws;
b. Section 4103 of this title relating to obedience to authorized persons directing traffic;
c. Section 4107 of this title relating to obedience to traffic-control devices;
d. Section 4110 of this title relating to flashing signals;
e. Section 4114 of this title relating to driving on the right side of roadway;
f. Section 4115 of this title relating to passing vehicles proceeding in opposite directions;
g. Section 4116 of this title relating to overtaking a vehicle on left;
h. Section 4117 of this title relating to when overtaking on the right is permitted;
i. Section 4118 of this title relating to limitations on overtaking on the left;
j. Section 4119 of this title relating to further limitations on driving to the left of center of roadway;
k. Section 4120 of this title relating to no-passing zones;
l. Section 4122 of this title relating to driving on roadways laned for traffic;
m. Section 4123 of this title relating to following too closely;
n. Section 4164 of this title relating to stop signs and yield signs;

o. Section 4168 of this title relating to general speed restrictions;
p. Section 4169 of this title relating to specific speed limits;
q. Section 4175 of this title relating to reckless driving;
r. Section 4176 of this title relating to careless or inattentive driving;
s. Section 4177 of this title relating to operation of vehicle while under the influence of alcohol and/or drugs;
t. Section 4178 of this title relating to stopping, standing or parking; and
u. Section 4184 of this title relating to limitations on backing.

(2) As used in this subsection, the phrase "within any highway construction or maintenance area indicated by traffic-control devices" shall mean that area between the first traffic-control device informing road users of their approach toward a work zone area until the last traffic-control device indicating all restrictions are removed and normal vehicle operations can resume. The phrase shall also include detour routes for highway construction or maintenance marked by traffic-control devices. "Traffic-control devices" and "work zone" shall have the same meaning as adopted pursuant to § 147 of Title 17, as amended. "Highway construction and maintenance area" shall also include construction and maintenance for utilities or railroads within or adjacent to the highway rights-of-way.

(3) Whenever practical, signs designed in compliance with regulations of the Department shall be appropriately placed to notify motorists that increased penalties apply for moving violations in construction or maintenance areas. However, the failure to post or an improper posting of such signs shall not be a defense to a violation of this section.

(21 Del. C. 1953 § 4105; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 700 § 3; 67 Del. Laws, c. 342 § 1; 68 Del. Laws, c. 9 § 22.)

## Subchapter II

## Traffic Signs, Signals and Markings

### § 4106 Authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter;
(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
(3) Exceed the speed limits so long as the driver does not endanger life or property;
(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible or visual signals meeting the requirements of this title, except that an authorized emergency vehicle operated as a police vehicle need not make use of such signals.

(d) The driver of an emergency vehicle is not liable for any damage to or loss of property or for any personal injury or death caused by the negligent or wrongful act or omission of such driver except acts or omissions amounting to gross or wilful or wanton negligence so long as the applicable portions of subsection (c) of this section have been followed. The owner of such emergency vehicle may not assert the defense of governmental immunity in any action on account of any damage to or loss of property or on account of personal injury or death caused by the negligent or wrongful act or omission of such driver or owner.

(e) Authorized emergency vehicles within the meaning of this chapter mean vehicles of a fire department, police vehicles, ambulances, vehicles used by a fire chief, deputy fire chief, assistant fire chief, chief engineer or fire police officer of any duly organized fire company in the performance of those duties, the vehicle of the State Forester in the performance of the State Forester's duties, the vehicle of the Forest Fire Control Supervisor in the performance of the Forest Fire Control Supervisor's duties, the vehicles of the State Emergency Response Team in the performance of its duties and emergency vehicles of state, federal, county or municipal departments or public service corporations as are designated or authorized by the Secretary of Safety and Homeland Security.

(21 Del. C. 1953 § 4106; 54 Del. Laws, c. 160 § 1; 61 Del. Laws, c. 461 § 1; 63 Del. Laws, c. 162 § 1; 63 Del. Laws, c. 300 § 1; 68 Del. Laws, c. 251 § 1; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 89 § 281(a); 77 Del. Laws, c. 6 § 1.)

### § 4107 Obedience to and required traffic-control devices.

(a) The driver of any vehicle shall obey the instructions of any traffic-control device applicable thereto placed in accordance with this title, unless otherwise directed as authorized in § 4103 of this title, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

(b) No provision of this chapter for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official traffic-control device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. This subsection shall not operate to relieve a driver of the duty to operate a vehicle with due regard to the safety of all persons using the highway.

(c) Whenever a particular section does not state that traffic-control devices are required, such section shall be effective even though no

traffic-control devices are erected or in place.

(d) In the event a traffic-control signal is erected and maintained at a place other than an intersection, this title shall be applicable except as to those provisions which by their nature can have no application.

(e) Whenever traffic-control devices are placed in position approximately conforming to the requirements of this title, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(f) Any traffic-control device placed pursuant to this title and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this title, unless the contrary shall be established by competent evidence.

(21 Del. C. 1953 § 4107; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 701 § 10; 70 Del. Laws, c. 186 § 1.)

## § 4108 Traffic-control signal legend.

(a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively 1 at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a traffic-control device at such place prohibits either such turn. Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

b. Unless otherwise directed by a pedestrian-control signal as provided in § 4109 of this title, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Circular yellow or yellow arrow:

a. Vehicular traffic facing the circular yellow signal is thereby warned that a red signal for the previously permitted movement will be exhibited immediately thereafter.

b. Vehicular traffic facing the yellow arrow signal shown alone or in combination with another indication is thereby warned that the previously displayed green arrow signal is being terminated. The yellow arrow signal may be followed by a red signal or a green signal.

c. Pedestrians facing a yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Red indication:

a. Vehicular traffic facing the red signal shall stop before crossing the stop limit, whether marked by sign or painted line, or if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown or as provided in paragraph (a)(3)b. of this section.

b. When a traffic-control device is not in place prohibiting such turn, vehicular traffic facing a circular red signal may cautiously enter the intersection to turn right, or to turn left from a one-way roadway onto a one-way roadway.

c. When turns on red are permitted, the right to proceed to turn after stopping shall be subject to the rule applicable after making a stop as at a stop sign.

d. No pedestrian facing such signal shall enter the roadway unless the pedestrian can do so safely and without interfering with any vehicular traffic.

(4) Green arrow or arrows:

a. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

b. Vehicles facing such signals are thereby advised that other traffic movements may be prohibited from the lane or lanes that the signal indication controls. Making or attempting to make any prohibited movement is unlawful.

c. Pedestrians facing such signals shall not enter the roadway unless they can do so safely and without interfering with any vehicular traffic.

(b) When lane use control signals are placed over the individual lanes of roadway or highway, vehicular traffic may travel in any lane or lanes over which a green signal is shown, but shall not enter or travel in any lane or lanes over which a red signal is shown. Left turns may be made across such lane if not otherwise prohibited. Vehicular traffic shall move from any lane over which a steady amber signal is displayed as soon as the movement can be made in safety. Vehicular traffic may use a lane over which a flashing yellow signal is displayed for the purpose of making a left turn.

(c) In the event that traffic signals are in place and no lighted indication is visible to an approaching driver, the approaching driver shall reduce speed and prepare to yield to other vehicles in or approaching the intersection.

(d) Whoever violates this section shall be fined not less than $75 nor more than $115. Whoever violates paragraph (a)(3) of this section shall be fined not less than $75 nor more than $230. For each subsequent offense of paragraph (a)(3) of this section within 2 years, the person shall be fined not less than $100 nor more than $575, or imprisoned not less than 10 nor more than 60 days, or both.

(e) Notwithstanding any provision of the Delaware Code to the contrary, any local government, municipality, town or county, whether incorporated or unincorporated, shall pay to the General Fund any sums collected under this section or any substantially conforming ordinances and regulations enacted by local authorities that exceed the maximum fine permitted under the law as it existed prior to the effective date of subsection (d) of this section.

(21 Del. C. 1953 § 4108; 54 Del. Laws, c. 160 § 1; 58 Del. Laws, c. 430; 58 Del. Laws, c. 570; 60 Del. Laws, c. 701 § 11; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 407 § 1.)

## § 4109 Pedestrian-control signals.

Whenever special pedestrian-control signals exhibiting the words or symbols "Walk" or "Don't Start" or "Don't Walk" are in place, such signals shall take precedence over pedestrian movements outlined in § 4108 of this title. Such signals shall apply as follows:

(1) "Walk" or flashing "Walk". — Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the driver of all vehicles.

(2) "Don't Walk" or flashing "Don't Walk" or "Don't Start". — No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed crossing on the walk signal shall proceed to the nearest sidewalk or safety island.

(21 Del. C. 1953 § 4109; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 12; 70 Del. Laws, c. 186 § 1.)

## § 4110 Traffic signals.

(a) Whenever a flashing red, yellow or green signal is used in a traffic signal or with a traffic sign, it shall require obedience by vehicle traffic as follows:

(1) Flashing red. — When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before crossing the stop limit whether marked by a sign or painted line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop as at a stop sign.

(2) Flashing yellow or green. — When a yellow or green lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signals only with caution.

(b) In the event that flashing signals are in place and no lighted indication is visible to an approaching driver, the approaching driver shall reduce speed and prepare to yield to other vehicles in or approaching the intersection. If facing a stop sign, the approaching driver shall stop and proceed as from a stop sign.

(c) This section shall not apply at railroad grade crossings.

(21 Del. C. 1953 § 4110; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 13; 67 Del. Laws, c. 46 § 72; 70 Del. Laws, c. 186 § 1.)

## § 4111 Display of unauthorized signs, signals or markings.

(a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising, and no person shall attach to any traffic sign or signal any other sign containing commercial advertising.

(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs, in compliance with § 1108 of Title 17.

(d) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

(21 Del. C. 1953 § 4111; 54 Del. Laws, c. 160 § 1.)

## § 4112 Interference with official traffic-control devices or railroad signs or signals or other street signs.

No person shall, without lawful authority, attempt to or, in fact alter, damage, deface, injure, twist, knock down, interfere with the operation of or remove any public roadway, bridge, drain, light, gate or traffic-control device, railroad sign or signal or other appurtenance or any inscription, shield or insignia thereon or any other part thereof or other type of highway signs erected by the State regardless of whether such sign is classified as regulatory or informational. Whoever violates this section shall, for the first offense, be fined not less than $57.50 nor more than $230, or imprisoned for not more than 10 days, or both. For each subsequent like offense committed within 2 years, the person shall be fined not less than $115 nor more than $460, or imprisoned for not more than 30 days, or both. Whoever violates this section shall in addition to any fine or incarceration make restitution to the State for actual costs incurred to replace the traffic-control device.

(21 Del. C. 1953 § 4112; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 14; 62 Del. Laws, c. 383 §§ 1-3; 68 Del. Laws, c. 9 § 23; 70 Del. Laws, c. 186 § 1.)

## § 4112A Traffic control signal preemption devices.

(a) As used in this section, "traffic control signal preemption device" means any device that emits a pulse of light or other signal that, when received by a detector attached to a traffic control signal alters or interferes with normal operation of the traffic control device.

(b) Except as provided in subsection (d) or (e) of this section, a traffic control signal preemption device may not be installed on a motor

vehicle, may not be transported in the passenger compartment of a motor vehicle, and may not be operated by the driver or passenger of a motor vehicle. No person who is not in a motor vehicle shall operate a traffic control signal preemption device. Violation of this subsection is an unclassified misdemeanor and upon arrest the device shall be seized and those convicted shall forfeit the traffic control signal preemption device and shall also be fined not less than $250 nor more than $750 and/or be sentenced to up to 3 months incarceration at Level V.

(c) No one may sell a traffic control signal preemption device, whether or not installed in a vehicle, to any person or entity for any intended use other than operation as permitted under subsection (d) or (e) of this section. Violation of this subsection is a class A misdemeanor.

(d) Installation of a traffic control signal preemption device is permitted on the following vehicles, and operation of the device is permitted as follows:

(1) Law-enforcement vehicles registered to state, county, or local authorities, when responding to a bona fide emergency, when used in combination with sirens and/or flashing lights.

(2) Vehicles registered to local fire departments and state or federal firefighting vehicles, when responding to a bona fide emergency, when used in combination with sirens and/or flashing lights.

(3) Vehicles that are designed and used exclusively as ambulances, paramedic or rescue vehicles, when responding to a bona fide emergency, when used in combination with sirens and/or flashing lights.

(4) Vehicles that are equipped and used exclusively as organ transport vehicles, when the transportation is declared an emergency by a member of the transplant team or a representative of the organ procurement organization, when used in combination with sirens and/or flashing lights.

(5) Vehicles registered to the Delaware Emergency Management Agency when responding to a bona fide emergency, when used in combination with sirens and/or flashing lights.

(6) Vehicles owned and operated by the Department of Transportation equipped to install, test and repair traffic signals when used for that express purpose.

(7) Department of Transportation vehicles that are expressly authorized by the Secretary of the Department of Transportation.

(e) Vehicles identified in paragraphs (d)(2) and (3) of this section may operate a traffic control preemption device when such vehicles are returning to their assigned duty station entranceways or driveways, but only to affect the operation of the traffic control signal or signals permitting direct access of such vehicles to their assigned duty stations' entranceways or driveways.

(74 Del. Laws, c. 231 § 1; 76 Del. Laws, c. 137 § 1; 78 Del. Laws, c. 89 §§ 1, 2.)

## Subchapter III

## Driving on Right Side of Roadway; Overtaking and Passing, etc.

### § 4114 Driving on right side of roadway; exceptions.

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) Upon a roadway divided into 3 marked lanes for traffic under the rules applicable thereon; or

(4) Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having 4 or more lanes for moving traffic and providing for 2-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by signs or markings designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under this section. This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, driveway or highway.

(21 Del. C. 1953 § 4114; 53 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 15.)

### § 4115 Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than 1 line of traffic in each direction each driver shall give to the other at least one half of the main-traveled portion of the roadway as nearly as possible.

(21 Del. C. 1953 § 4115; 54 Del. Laws, c. 160 § 1.)

## § 4116 Overtaking a vehicle on the left.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicles.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the vehicle until completely passed by the overtaking vehicle.

(3) A person who violates this section by driving below the posted speed limit in the left lane of a multilane roadway when it impedes the ability of 1 or more vehicles to pass, except when such person is making a legal left turn or otherwise lawfully exiting the road to the left, shall be penalized as provided in § 4205 of this title.

(4) The driver of a motor vehicle, when approaching a bicyclist traveling in the same direction, shall ensure the safety and protection of the bicyclist by:

a. Proceeding with caution and yielding the right-of-way by making a lane change into a lane not adjacent to that of the bicyclist, if possible, with due regard to safety and traffic conditions, if on a roadway having at least 4 lanes with not less than 2 lanes proceeding in the same direction as the approaching vehicle; or,

b. Proceeding with caution and reducing the speed of the vehicle to a safe speed and leaving a reasonable and prudent distance by providing a minimum of 3 feet of clearance while passing such bicyclist, if changing lanes would be impossible or unsafe.

(21 Del. C. 1953 § 4116; 54 Del. Laws, c. 160 § 1; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 150 § 1; 78 Del. Laws, c. 395 § 1.)

## § 4117 When overtaking on the right is permitted.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under conditions permitting such movement in safety. In no event, except as permitted in subsection (c) of this section, shall such movement be made by driving off the roadway, main traveled portion or regular moving traffic lane of the highway.

(b) Overtaking and passing on the right, except as permitted herein, shall be unlawful:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon any roadway which is officially marked for more than 1 traffic lane in 1 direction;

(3) Upon any roadway on which traffic is restricted to 1 direction of movement and the roadway is of sufficient width for 2 or more lanes of moving vehicles.

(c) When the vehicle overtaken is making or about to make a left turn, the vehicle approaching from the rear may pass on the right using the shoulder if necessary.

(21 Del. C. 1953 § 4117; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 16.)

## § 4118 Limitations on overtaking on the left.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable.

(21 Del. C. 1953 § 4118; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 17.)

## § 4119 Further limitations on driving to left of center of roadway.

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:

(1) When approaching or upon a curve or the crest of a grade in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by official traffic-control devices;

(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in § 4114(a)(2) of this title, nor to the driver of a vehicle turning left into or from an alley, private road, driveway or highway.

(21 Del. C. 1953 § 4119; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 18.)

## § 4120 No-passing zones.

(a) The Department of Transportation is authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

(b) Where signs or markings are in place to define a no-passing zone, no driver shall at any time drive on the left side of the roadway

within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length. This subsection does not apply under the conditions described in § 4114(a)(2) of this title, nor to a driver of a vehicle turning left into or from an alley, private road, driveway or highway.

(21 Del. C. 1953 § 4120; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 701 §§ 19, 20.)

## § 4121 One-way roadways and rotary traffic islands.

(a) Upon a roadway where traffic-control devices establish one-way traffic, a vehicle shall be driven only in the direction designated. Such designation may be at all times or at such times as shall be indicated by traffic-control devices.

(b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(c) A driver about to enter a rotary traffic island shall yield the right-of-way to any vehicles passing around it.

(21 Del. C. 1953 § 4121; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 701 § 21.)

## § 4122 Driving on roadways laned for traffic.

Whenever any roadway has been divided into 2 or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into 3 lanes for 2-way traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of oncoming traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively by traffic-control devices to traffic moving in the direction the vehicle is proceeding.

(3) Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such traffic-control device.

(4) Traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(21 Del. C. 1953 § 4122; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 22.)

## § 4123 Following too closely.

(a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any truck or vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district, and which is following another vehicle, shall, whenever conditions permit, leave sufficient space, but not less than 300 feet, so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles. Whoever violates this subsection shall, for the first offense, be fined not less than $28.75 nor more than $75. For each subsequent like offense within 2 years, the person shall be fined not less than $57.50 nor more than $95.

(c) Vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

(21 Del. C. 1953 § 4123; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 23; 62 Del. Laws, c. 140 § 1; 68 Del. Laws, c. 9 § 24; 78 Del. Laws, c. 208 §§ 1-3.)

## § 4124 Driving on divided highways.

Whenever any highway has been divided into 2 or more roads by an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand road unless directed or permitted to use another road by official traffic-control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection as established, unless specifically authorized by public authority. The driver of a vehicle may turn left across a paved dividing space unless prohibited by an official traffic-control device.

(21 Del. C. 1953 § 4124; 54 Del. Laws, c. 160 § 1; 56 Del. Laws, c. 313; 79 Del. Laws, c. 258 § 1.)

## § 4125 Turning off roadway by slow-moving vehicle.

On a 2-lane highway where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, behind which 5 or more vehicles are formed in line, shall turn off the roadway wherever sufficient area for a safe turnout exists, in order to permit the vehicles following to proceed. As used in this section, a slow-moving vehicle is one which is proceeding at a rate of speed less than the normal flow of traffic at the particular time and place.

(60 Del. Laws, c. 701 § 24.)

# Subchapter III-A
# Controlled-Access Highways

## § 4126 Unlawful use of controlled-access highways; penalties.

(a) On any state highway designated by the Department of Transportation as a "controlled-access highway," no person shall:

(1) Drive a vehicle over, upon or across any curb, central dividing section or other separation or dividing line;

(2) Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line;

(3) Drive any vehicle except in the proper lane provided for that purpose in the proper direction in said lane;

(4) Drive any vehicle from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled-access facility proper;

(5) Drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established;

(6) Back a vehicle upon any shoulder or roadway;

(7) Operate or drive a bicycle, except where appropriately marked by the Department of Transportation;

(8) Operate or drive any nonmotorized vehicle or wagon;

(9) Lead or participate in a parade;

(10) Lead or participate in a convoy or procession, either walking or riding, except a riding funeral procession which proceeds at the prevailing rate of speed and which does not prevent or interfere with the entrance into or exit off of the controlled access highway by others;

(11) Walk as a pedestrian except to contact aid in the event of an accident, breakdown or other emergency;

(12) Operate a vehicle of any type or kind prohibited by traffic-control devices at the entrances;

(13) Disobey the restriction stated on any traffic-control device erected at the entrances.

(b) Whoever violates subsection (a) of this section shall for the first offense be fined not less than $25 nor more than $75. For each subsequent like offense, the person shall be fined not less than $50 nor more than $95. Justices of the peace shall have original jurisdiction to hear, try and finally determine alleged violations of this section.

(21 Del. C. 1953 § 4126; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 58 Del. Laws, c. 381; 60 Del. Laws, c. 700 § 4; 60 Del. Laws, c. 701 § 26; 65 Del. Laws, c. 503 § 15; 67 Del. Laws, c. 90 § 1; 68 Del. Laws, c. 9 § 25; 69 Del. Laws, c. 243 § 1; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 208 §§ 4-6.)

## § 4127 Unlawful evasion of Delaware Turnpike and the Korean War Veterans Memorial Highway; harassment of toll collectors; penalty; appeal; jurisdiction; payment of minimum fine before trial.

(a) No vehicle shall be used on any part of the Delaware Turnpike, the Korean War Veterans Memorial Highway or any other State toll road except upon payment of such tolls as may from time to time be prescribed by the Department of Transportation of this State.

(b) It is unlawful for any person to refuse to pay, to evade or attempt to evade the payment of such toll. Any such violation regarding the payment of tolls shall be an unclassified misdemeanor, and shall be punishable by a fine of not less than $25 nor more than $100, or imprisonment for not less than 10 nor more than 30 days, or both.

(c) Any person convicted under this section shall have the right of an appeal as prescribed in § 708 of this title.

(d) In the event of an arrest for the violation of this section, the person arrested shall be taken before a justice of the peace whose regular office is nearest to the place where such person was arrested. The person so arrested shall have the privilege of electing to have the case tried and determined in the Court of Common Pleas as provided in § 5901 of Title 11.

(e) Any peace officer may stop and arrest, with or without a warrant, any person abroad who the police officer has reasonable ground to suspect is committing, has committed or is attempting to commit a violation of this section.

(f) Any person arrested for violations of this section shall have the right to appear before the committing justice of the peace on or before the date and time set for trial and pay the minimum fine for each such offense or to mail the minimum fine to the committing justice of the peace provided that such remittance is mailed at least 2 days before the date set for the trial. Court costs shall not be assessed if the fine is paid pursuant to this subsection, any statute or court rule of this State notwithstanding. The Court shall mail a receipt indicating the payment of a fine pursuant to this subsection if the person paying such fine makes a written request for a receipt and encloses a self-addressed envelope with postage affixed thereon.

(g) If any vehicle is witnessed by a police officer, toll collector or video surveillance device, to be in violation of subsection (b) of this section, and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name the vehicle is registered committed such violation of subsection (b) of this section.

(h) Any person who commits an act of offensive touching, presents payment in the form of an obviously unsanitary piece of United States currency, or who commits any act knowing that one is thereby likely to cause offense or alarm to an on duty toll collector, will be guilty of an unclassified misdemeanor.

(21 Del. C. 1953 § 4127; 57 Del. Laws, c. 456; 58 Del. Laws, c. 198; 60 Del. Laws, c. 701 § 26; 68 Del. Laws, c. 9 § 26; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 342 §§ 1-4; 71 Del. Laws, c. 13 § 3; 77 Del. Laws, c. 60 § 10.)

## § 4128 Delaware Memorial Bridge; toll evasion; payment of minimum fine before trial.

(a) No vehicle shall use any part of the Delaware Memorial Bridge, except upon payment of such tolls as may from time to time be prescribed by the Delaware River and Bay Authority.

(b) No person shall refuse to pay, evade or attempt to evade the payment of any such toll. Any such violation regarding the payment of tolls shall be an unclassified misdemeanor, and shall be punishable by a fine of not less than $25 nor more than $100, or imprisonment for not less than 10 nor more than 30 days, or both.

(c) Any person convicted under this section shall have the right of appeal as set forth in § 708 of this title.

(d) In the event of an arrest for a violation of this section, the person arrested shall be taken before a justice of the peace whose regular office is nearest to the place where such person was arrested. The person so arrested may elect to have the case tried and determined in the Court of Common Pleas and shall be advised of this privilege as set forth in § 5901 of Title 11.

(e) Any peace officer may stop and arrest, with or without a warrant, any person abroad who the police officer has reasonable grounds to suspect is committing, has committed or is attempting to commit a violation of this section.

(f) Any person arrested for violations of this section shall have the right to appear before the committing justice of the peace on or before the date and time set for trial and pay the minimum fine for each such offense or to mail the minimum fine to the committing justice of the peace provided that such remittance is mailed at least 2 days before the date set for trial. Court costs shall not be assessed if the fine is paid pursuant to this subsection, any statute or court rule of this State notwithstanding. The Court shall mail a receipt indicating the payment of a fine pursuant to this subsection if the person paying such fine makes a written request for a receipt and encloses a self-addressed envelope with postage affixed thereon.

(g) If any vehicle is witnessed by a police officer, toll collector or video surveillance device to be in violation of subsection (b) of this section and the identity of the operator is not apparent, it shall be a rebuttable presumption that the person in whose name the vehicle is registered committed the violation.

(h) Any person who commits an act of offensive touching against a toll collector who is on duty, presents payment in the form of obviously unsanitary United States currency, or commits any act knowing that such act is likely to cause offense or alarm to a toll collector on duty is guilty of an unclassified misdemeanor.

(60 Del. Laws, c. 555 § 2; 62 Del. Laws, c. 403 § 1; 65 Del. Laws, c. 503 § 16; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 174 § 1; 77 Del. Laws, c. 60 § 11.)

## § 4129 Civil penalty for evasion of tolls.

(a) In addition to the provisions of §§ 4127 and 4128 of this title, any person who refuses to pay, evades or attempts to evade the payment of a toll in connection with the use of the Delaware Turnpike, the Korean War Veterans Memorial Highway, any other state toll road or the Delaware Memorial Bridge shall be liable for the payment of one toll, a $25 administrative fee, and for a civil penalty of $25 per violation payable to the Department of Transportation or its designee or, in the case of the Delaware Memorial Bridge, the Delaware River & Bay Authority or its designee.

(b) Except as provided in subsection (d) of this section, an owner of a vehicle shall be jointly and severally liable for failure of an operator thereof to comply with subsection (a) of this section. The owner of a vehicle shall be liable pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of this section, and such violation is evidenced by information obtained from visual observation, video surveillance device or other method of identifying the vehicle; provided however, that no owner of a vehicle shall be liable where the operator of the vehicle has been identified and charged with a violation of this section for the same incident.

(c) In the event of nonpayment of the proper toll, as evidenced by visual observation, a video surveillance device or other method of identifying the vehicle, the Department of Transportation or its designee or, in the case of the Delaware Memorial Bridge, the Delaware River & Bay Authority or its designee may send an advisory and payment request to the owner of the vehicle by regular mail at the address of record with the Division of Motor Vehicles, or, if applicable, the licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of this section. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. In addition to the payment of the proper toll, the Department of Transportation or, in the case of the Delaware Memorial Bridge, the Delaware River and Bay Authority or its designee may require as part of the advisory and payment request that the owner pay a reasonable administrative fee of $25 to the entity processing the violation. If the owner fails to pay the required toll and fee, the owner shall be subject to liability on the thirty-first day following the date of the violation, for the violation of this section by the vehicle owner or operator.

(d) An owner of a vehicle who is a lessor of a vehicle operated in violation of this section shall not be liable for such violation if the lessor submits a copy of the rental, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible, to the Department of Transportation or its designee or, in the case of the Delaware Memorial Bridge, the Delaware River and Bay Authority or its designee within 10 days of the receipt of the notice of violation. Failure to provide such information in the timeframe required shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with this subsection, the lessee of such vehicle shall be deemed the owner of the vehicle for the purposes of this section and shall be subject to liability for the violation hereunder, as if the lessee were the owner and/or operator at the time of the violation.

(e) Enhanced civil enforcement authority. — If a vehicle owner has been issued advisory and payment requests for nonpayment of tolls

under subsection (c) of this section, and the combined total of outstanding and unpaid tolls, applicable administrative fees and associated penalties exceeds $1,000, the vehicle shall be subject to a civil administrative stop pursuant to Chapter 8 of this title, and the vehicle owner shall be subject to enhanced civil enforcement, as follows:

(1) Such vehicle shall be immobilized in such manner as to prevent its operation, or removed to an official pound by authority of any police officer of this State, a county or municipality therein, or the Delaware River and Bay Authority. Any vehicle so immobilized or impounded shall not be released to its lawful owner until all unpaid tolls and applicable administrative fees issued to such owner have been discharged by payment in full, together with payment for the costs of immobilizing, releasing, and storing such vehicle. The owner shall sign a receipt for such vehicle. Payment for any such towing shall be in accordance with the towing costs outlined in the current agreement between police agency and the towing operator. If the vehicle is a tractor-trailer combination, the trailer may be released to an authorized agent if the tractor is immobilized pursuant to this section.

(2) In any case involving immobilization of a vehicle pursuant to this section, the police officer shall place on such vehicle, in a conspicuous manner, notice sufficient to warn any individual that such vehicle has been immobilized and that any attempt to move such vehicle might result in damage to such vehicle.

(3) Any vehicle remaining immobilized and not released for 48 hours may be towed and impounded at the direction of a police officer.

(71 Del. Laws, c. 13 § 2; 73 Del. Laws, c. 174 §§ 2-6; 76 Del. Laws, c. 400 § 1.)

## Subchapter IV

## Right-of-Way

### § 4130 Vehicle obstructing traffic.

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed.

(60 Del. Laws, c. 701 § 27; 70 Del. Laws, c. 186 § 1.)

### § 4131 Vehicle approaching or entering intersection.

(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When 2 vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(c) The right-of-way rules declared in subsections (a) and (b) of this section are modified at through highways and otherwise as stated in this chapter.

(21 Del. C. 1953 § 4131; 54 Del. Laws, c. 160 § 1.)

### § 4132 Vehicle turning left.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute an immediate hazard.

(21 Del. C. 1953 § 4132; 54 Del. Laws, c. 160 § 1.)

### § 4133 Vehicle entering roadway.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

(21 Del. C. 1953 § 4133; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 28.)

### § 4134 Operation of vehicles on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersections and shall relinquish the right-of-way until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, blue, blue and white, red and white, red and blue, or red, white and blue lights, or upon approaching a stationary authorized vehicle of the Department of Transportation, which is giving a signal by displaying alternately flashing amber or red and amber lights, or upon approaching a stationary tow truck, which is giving a signal by displaying alternately flashing amber, white, or amber and white lights, or upon approaching a stationary vehicle owned or operated by a public utility, which is giving a signal by displaying alternately flashing amber, white, or amber and white lights, a person who drives an approaching vehicle shall:

(1) Proceed with caution and yield the right-of-way by making a lane change into a lane not adjacent to that of such vehicle, if possible

with due regard to safety and traffic conditions, if on a roadway having at least 4 lanes with not less than 2 lanes proceeding in the same direction as the approaching vehicle; or,

(2) Proceed with caution and reduce the speed of the vehicle to a safe speed while passing such stationary vehicle, if changing lanes would be impossible or unsafe.

(c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(d) Any person violating subsection (b) of this section who hits, strikes, or in any way contacts an emergency responder, causing physical injury, with that person's vehicle shall be guilty of a class F felony.

(21 Del. C. 1953 § 4134; 54 Del. Laws, c. 160 § 1; 59 Del. Laws, c. 351 § 1; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 366 § 1; 76 Del. Laws, c. 345 § 1; 77 Del. Laws, c. 27 § 1; 77 Del. Laws, c. 465 § 1; 80 Del. Laws, c. 104 § 1.)

### § 4135 Entering or crossing divided highway from crossover or other intervening space between opposing lanes.

The driver of a vehicle about to drive onto or across a lane or lanes of a divided highway from the intervening space between opposing lanes where there is no official traffic-control device shall yield the right-of-way to any vehicle approaching on the divided highway.

(21 Del. C. 1953 § 4135; 57 Del. Laws, c. 616.)

### § 4136 Driving upon sidewalk or bicycle path by vehicles and bicycles.

(a) No person shall drive any motor vehicle upon a sidewalk or bicycle path or sidewalk area or bicycle path area except upon a permanent or duly authorized temporary driveway.

(b) A person riding a bicycle upon a sidewalk or bicycle path lawfully used by pedestrians shall give audible signal before overtaking and passing such pedestrian.

(c) A person shall not ride a bicycle upon a sidewalk in a business district, when use of a sidewalk is prohibited by official traffic-control devices or when a usable bicycle-only lane has been provided adjacent to the sidewalk.

(60 Del. Laws, c. 701 § 29.)

## Subchapter V

## Pedestrians' Rights and Duties

### § 4140 Certain offenses not entered on motor vehicle record.

Arrests and or convictions for offenses in §§ 4141, 4143, 4145-4150 of this title shall not be entered on a driver's motor vehicle record.

(64 Del. Laws, c. 32 § 1.)

### § 4141 Pedestrian obedience to traffic-control devices and traffic regulations.

(a) A pedestrian shall obey the instructions of a traffic-control device specifically applicable to the pedestrian, unless otherwise directed by a police officer or uniformed adult school crossing guard. This section shall not operate to relieve the responsibilities and duties set forth in other sections of this subchapter.

(b) Pedestrians shall be subject to traffic and pedestrian control signals as provided in §§ 4108 and 4109 of this title.

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(21 Del. C. 1953 § 4141; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 30; 70 Del. Laws, c. 186 § 1.)

### § 4142 Pedestrians' right-of-way in crosswalks.

(a) When traffic-control signals are not in place or not in operation or when the operator of a vehicle is making a turn at an intersection, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) of this section shall not apply under the conditions stated in § 4143(b) of this title.

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(21 Del. C. 1953 § 4142; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 31; 68 Del. Laws, c. 438 § 1.)

### § 4143 Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where pedestrian tunnel or overhead pedestrian crossing has been provided shall yield

the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(21 Del. C. 1953 § 4143; 54 Del. Laws, c. 160 § 1.)

## § 4144 Drivers to exercise due care.

Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person or a person wholly or partially blind, carrying a cane or walking stick white in color, or white tipped with red or accompanied by a guide dog, upon a roadway.

(21 Del. C. 1953 § 4144; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 32.)

## § 4145 Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(21 Del. C. 1953 § 4145; 54 Del. Laws, c. 160 § 1.)

## § 4146 Pedestrians on highways; penalty.

(a) Where a sidewalk is provided and is accessible, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk facing traffic only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and shall walk facing traffic.

(d) Except as otherwise provided in this chapter, any pedestrian upon a highway shall yield the right-of-way to all vehicles upon the highway.

(e) This section shall not require that pedestrians on one-way roadways of controlled-access highways walk facing traffic to the nearest emergency reporting device.

(f) Whoever violates this section shall for the first offense be fined not less than $10 nor more than $28.75. For each subsequent like offense, the person shall be fined not less than $25 nor more than $50.

(g) A foot race or walking event on a highway shall not be unlawful when the event has been approved by the Department or the local authorities in their respective jurisdictions. Approval of a foot race or walking event on a highway shall be granted only under conditions which ensure reasonable safety for all participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users. By agreement with the approving authority, participants in an approved foot race or walking event on a highway may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to ensure the safety of all highway users.

(21 Del. C. 1953 § 4146; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 700 § 5; 65 Del. Laws, c. 503 § 17; 68 Del. Laws, c. 9 § 27; 70 Del. Laws, c. 186 § 1; 79 Del. Laws, c. 191 § 1.)

## § 4147 Pedestrians soliciting rides or business.

(a) No person shall stand in a highway for the purpose of soliciting any employment, business or contributions from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a highway for the purpose of soliciting the watching or guarding of any vehicle while parking or about to be parked on a highway.

(c) No person shall stand in a highway for the purpose of soliciting a ride.

(d) No person shall at any time be jailed solely for violation of subsection (c) of this section.

(e) The prohibition against soliciting contributions contained in subsection (a) of this section shall not apply on the Saturday immediately prior to Father's Day each year to solicitations by charitable organizations, defined as those organizations previously qualified as such under the federal Internal Revenue Code [26 U.S.C. § 1 et seq.], when those solicitations take place only during daylight hours, at intersections with traffic control signals in place, using only existing median strips or other off-street facilities, using individuals no younger than 18 years of age to conduct the solicitation, without using any devices to alter or impede the traffic flow.

(21 Del. C. 1953 § 4147; 54 Del. Laws, c. 160 § 1; 58 Del. Laws, c. 54 § 1; 60 Del. Laws, c. 700 § 6; 67 Del. Laws, c. 39 § 1.)

## § 4148 Carrying of lights or reflector device by pedestrians; penalty.

(a) No pedestrian shall walk upon any roadway or shoulders of any roadway of this State that is used for motor or vehicle traffic, beyond the corporate limits of any city or town, without carrying a lighted lantern, lighted flashlight or other similar light or reflector type device during the period of time from sunset to sunrise and at any other time when there is not sufficient light to render clearly visible any person

or vehicle on the highway.

(b) Whoever violates subsection (a) of this section shall for the first offense be fined not less than $2.30 nor more than $28.25. For each subsequent like offense within 1 year, the person shall be fined not less than $11.50 nor more than $28.25.

(21 Del. C. 1953 § 4148; 54 Del. Laws, c. 160 § 1; 58 Del. Laws, c. 54 § 2; 65 Del. Laws, c. 353 § 1; 68 Del. Laws, c. 9 § 28; 70 Del. Laws, c. 186 § 1.)

### § 4149 Walking on highways under influence of drugs or liquor.

No person shall walk or be upon a highway of this State while under the influence of intoxicating liquor and/or narcotic drugs to a degree which renders the person a hazard.

(21 Del. C. 1953 § 4149; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 33; 70 Del. Laws, c. 186 § 1.)

### § 4150 Use of certain canes restricted to blind pedestrians.

No persons except those wholly or partially blind shall carry in a raised or extended position on any street or highway a cane or walking stick which is white in color or white tipped in red.

(21 Del. C. 1953 § 4150; 54 Del. Laws, c. 160 § 1.)

### § 4151 Pedestrians' right-of-way on sidewalks.

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.

(60 Del. Laws, c. 701 § 34.)

## Subchapter VI

## Turning and Starting and Signals on Stopping and Turning

### § 4152 Required position and method of turning at intersections.

(a) The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right Turns. — Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left Turns on 2-Way Roadways. — At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center thereof and by passing to the right of such center line where it enters the intersection and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left Turns on Other Than 2-Way Roadways. — At any intersection where traffic is restricted to 1 direction on 1 or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(b) Traffic-control devices may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when traffic-control devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by traffic-control devices.

(21 Del. C. 1953 § 4152; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 701 § 35.)

### § 4153 Limitations on turning around.

(a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

(b) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(21 Del. C. 1953 § 4153; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 36.)

### § 4154 Starting parked vehicles.

No person shall cause a vehicle to be moved which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

(21 Del. C. 1953 § 4154; 54 Del. Laws, c. 160 § 1.)

### § 4155 Turning movements and required signals.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in § 4152 of this title, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a

roadway or turn so as to proceed in an opposite direction unless and until such movement can be made with safety without interfering with other traffic. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last 300 feet or more than 1/2 mile traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals provided for in § 4156 of this title shall be used to indicate an intention to turn, change lanes or start from a parked position and shall not be flashed on 1 side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

(21 Del. C. 1953 § 4155; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 37.)

## § 4156 Signals by hand and arm or signal device.

(a) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device, except as otherwise provided in subsection (b) of this section.

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

(21 Del. C. 1953 § 4156; 54 Del. Laws, c. 160 § 1.)

## § 4157 Method of giving hand and arm signals.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

(1) Left turn. — Hand and arm extended horizontally.

(2) Right turn. — Hand and arm extended upward.

(3) Stop or decrease speed. — Hand and arm extended downward.

(21 Del. C. 1953 § 4157; 54 Del. Laws, c. 160 § 1; 66 Del. Laws, c. 167 § 1; 70 Del. Laws, c. 384 § 1.)

# Subchapter VII

# Special Stops Required

## § 4161 Obedience to signal indicating approach of train, drawbridge or automatic signal system controlling the flow of traffic.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing, drawbridge or automatic signal system controlling the flow of traffic under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until the driver can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(21 Del. C. 1953 § 4161; 54 Del. Laws, c. 160 § 1; 70 Del. Laws, c. 186 § 1.)

## § 4162 [Reserved.]

## § 4163 Certain vehicles must stop at all railroad grade crossings.

(a) Except as provided by subsection (b) of this section, the driver of any motor vehicle carrying passengers for hire or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at any grade or any track of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required by this subsection, and upon proceeding when it is safe to do so, the driver of any vehicle referenced in this subsection shall cross only in such gear of the vehicle that there will be no necessity for changing gears while

traversing such crossing, and the driver shall not shift gears while crossing the track.

(b) Subsection (a) of this section shall not apply at any of the following:

(1) A railroad grade crossing at which traffic is controlled by a police officer or human flagger.

(2) A railroad grade crossing at which traffic is regulated by a traffic-control signal.

(3) A railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train.

(4) A railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

(c) Except as provided by subsection (d) of this section, the driver of any school bus, before crossing at any grade or any track of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required by this subsection, and upon proceeding when it is safe to do so, the driver of any school bus shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track.

(d) Subsection (c) of this section shall not apply at any of the following:

(1) A railroad grade crossing at which traffic is controlled by a police officer or human flagger.

(2) A railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

(21 Del. C. 1953 § 4163; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 39; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 312 § 3; 80 Del. Laws, c. 122 § 1.)

## § 4163A Railroad crossing violations for operators of commercial vehicles only.

In addition to the existing railroad crossing violations in § 4163 of this title, the following railroad crossing infractions shall apply to commercial motor vehicle operators.

(1) Every commercial motor vehicle operator other than those listed in § 4163 of this title shall, upon approaching a railroad-highway grade crossing:

a. Slow down and check that the tracks are clear of an approaching train; and

b. Stop before reaching the crossing if the tracks are not clear.

(2) The driver of a commercial motor vehicle shall obey a traffic control device and comply with a lawful order or direction of a police officer or other enforcement official who is guiding, directing, controlling, or regulating traffic at a railroad-highway grade crossing.

(3) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance.

(4) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient space and can be driven completely through the crossing without stopping.

(77 Del. Laws, c. 311 § 9.)

## § 4164 Stop signs and yield signs.

(a) Except when directed to proceed by police officers or traffic-control devices, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(b) The operator of any vehicle who has come to a full stop as provided in subsection (a) of this section shall yield the right-of-way to any vehicle or pedestrian in the intersection or to any vehicle approaching on another roadway so closely as to constitute an immediate hazard and shall not enter into, upon or across such roadway or highway until such movement can be made in safety.

(c) Whenever a yield sign notifying drivers to yield the right-of-way has been erected, it shall be unlawful for a driver of any vehicle on the highway whose traffic is regulated by such a sign to fail to yield the right-of-way to any vehicle approaching on or from another highway or merging roadway or to a pedestrian legally crossing a roadway. If required for safety to stop, the stop shall be made at a marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Any such driver having so yielded to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard or to a pedestrian legally crossing a roadway shall not enter into, upon or across such roadway or highway until such movement can be made in safety.

(21 Del. C. 1953 § 4164; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 701 § 40.)

## § 4165 Emerging from alley, driveway, private road or building.

The driver of a vehicle emerging from an alley, driveway, private road or building where there is no official traffic-control device shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, driveway or private road and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and before entering the roadway shall

yield the right-of-way to all vehicles approaching on the roadway.

(21 Del. C. 1953 § 4165; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 41.)

## § 4166 Overtaking and passing school bus; stop signal devices.

(a) School bus. —

(1) It shall be unlawful to operate or permit to be operated a vehicle which purports to be a school bus and which does not meet the following requirements:

a. Carries a valid school bus inspection sticker;

b. Meets all requirements set by the Department of Transportation; and

c. Complies with §§ 4362-4364 of this title [repealed].

(2) If licensed in another state, these requirements still prevail except that an inspection sticker is not required.

(3) It shall be unlawful for the driver of any vehicle which does not meet the requirements of this section to attempt to or to control traffic while stopped on the roadway to pick up and discharge passengers.

(b) School bus flashing lamps. —

(1) School bus flashing lamps are intended to identify the vehicle as a school bus and to inform other users of the highway that such vehicle is about to stop or is stopped on the roadway or shoulder to take on or discharge school children. They are separate from the brake lamps and shall not be used in lieu of or to supplement the brake lamps.

(2) The amber warning lamps shall be activated approximately 10 seconds prior to the red stop lamps to give motorists advance notice that the bus is preparing to stop or has stopped to pick up and discharge pupils. The lamps shall always be used prior to the red when available and shall be used only after the bus is relatively parallel with the travelway. The bus may be in motion when the amber warning lamps are activated.

(3) The red stop lamps shall be activated only when the bus is stopped, but only when the bus is stopped on the shoulder or roadway to pick up and discharge pupils. The red stop lamps shall not be displayed while the bus is in motion either before or after a stop.

(4) The amber warning lamps and/or the red stop lamps shall not be activated:

a. In designated school bus loading zones;

b. At intersections or other places where traffic is controlled by traffic-control signals or police officers;

c. When the bus is not being used as a school bus; provided, however, the amber warning lights and/or the red stop lamps may be used any time the bus is transporting children under the age of 18.

(c) School bus words. — The words "SCHOOL BUS" shall be displayed whenever the bus is operated as a school bus. The words shall be covered, or concealed or removed when the bus is not in actual service as a school bus.

(d)(1) Overtaking and passing school bus. — When a school bus is stopped and displays flashing lamps in accordance with subsection (b) of this section, the driver of any vehicle approaching the school bus from the front or from the rear shall stop before passing the bus and remain stopped until such bus begins to move or no longer has the red stop lamps activated. On roadway or roadways with 4 or more lanes, the driver approaching from the front shall not stop.

(2) The provisions of § 4101(a) of this title or any other statute notwithstanding, the provisions of this subsection shall apply upon highways and elsewhere throughout the State.

(e) Stopping of school bus. — Whenever practical, a school bus driver shall stop as far to the right as possible to pick up and discharge passengers.

(f) Identification of violators. — If any vehicle is witnessed by a police officer, school bus operator or school crossing guard to be in violation of subsection (d) of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered committed such violation of subsection (d) of this section.

(g) Bus operators, bus aides or crossing guards as witnesses. — Whenever a school bus operator, a bus aide or a crossing guard is required to prepare, with legal counsel, for an appearance or to appear in any court as witness against a person who is alleged to have violated subsection (d) of this section, the witness shall be advised by the prosecutor assigned to the case by the Attorney General. If a witness is required to prepare for or to appear in court during working hours, as an operator, aide or guard, in a case as herein described, the witness shall not suffer any loss of wages, salary or leave time as an employee of the school district, bus contractor or other employing agency, because of such appearance, except as provided in this section. If the preparation or appearance occurs at a time other than regular working hours, then the witness shall be paid by the employer for the time involved. Payment for such time shall be at the rate regularly paid to that employee, except that such payment shall not exceed $8.00 per hour. Employers shall be reimbursed for wages and employment costs paid upon presentation of appropriate documentation to the Secretary of Education.

(h) Penalties. — Whoever violates subsection (d) of this section shall, for the first offense, be fined not less than $115 nor more than $230 or imprisoned not less than 30 days nor more than 60 days or both. For each subsequent like offense occurring within 3 years from the former offense, such person shall be fined not less than $115 nor more than $575, and imprisoned not less than 60 days nor more than 6 months. The minimum fine levied for a violation of subsection (d) of this section shall not be subject to suspension.

(i) Suspension of license. — Upon receiving a conviction for a violation of subsection (d) of this section, the Department shall suspend the driver's license and/or driving privileges for a period of not less than 1 month, nor more than 1 year. If the driver's license is suspended, a conditional license may be issued pursuant to regulations adopted by the Department.

(21 Del. C. 1953 § 4166; 54 Del. Laws, c. 160 § 1; 56 Del. Laws, c. 367; 60 Del. Laws, c. 701 § 42; 63 Del. Laws, c. 157 §§ 1, 2; 63 Del. Laws, c. 402 § 3; 64 Del. Laws, c. 311 § 1; 67 Del. Laws, c. 21 § 1; 68 Del. Laws, c. 9 § 29; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 65 § 26; 73 Del. Laws, c. 211 §§ 1, 2; 74 Del. Laws, c. 110 § 86; 77 Del. Laws, c. 312 §§ 4, 5.)

## § 4167 Moving heavy equipment at railroad grade crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than 1/2 inch per foot of the distance between any 2 adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under the flagger's direction.

(21 Del. C. 1953 § 4167; 54 Del. Laws, c. 160 § 1; 70 Del. Laws, c. 186 § 1.)

# Subchapter VIII

# Speed Restrictions

## § 4168 General speed restrictions.

(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and without having regard to the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway, in compliance with legal requirements and the duty of all persons to use due care.

(b) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(21 Del. C. 1953 § 4168; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 43.)

## § 4169 Specific speed limits; penalty.

(a) Where no special hazard exists, the following speeds shall be lawful, but any speed in excess of such limits shall be absolute evidence that the speed is not reasonable or prudent and that it is unlawful [for] all types of vehicles:

(1) 25 miles per hour in any business district;

(2) 25 miles per hour in any residential district;

(3) 20 miles per hour at all school zones where 20 mph regulatory signs are posted and state the time periods or conditions during which the speed limit is in effect; such conditions may include when children are present or while 1 or more warning lights flash;

(4) 50 miles per hour on 2-lane roadways;

(5) 55 miles per hour on 4-lane roadways and on divided roadways.

(b) Whenever the Department of Transportation shall determine, on the basis of engineering studies and traffic investigations or upon the basis of a federal law or directive by the Congress or the President, that a maximum speed limit set pursuant to subsection (a) of this section in any particular place on the state maintained highway system is greater or less than is reasonable or safe, the Department shall declare a reasonable and safe maximum limit thereat, which limit shall be effective when posted. Such maximum limit may be declared to be effective either part or all of the time and differing limits may be established for different times of the day, for different types of vehicles, for different weather conditions and when other significant factors differ. Such maximum limits may be posted on fixed or variable signs. Any speed in excess of such displayed limits shall be absolute evidence that the speed is not reasonable or prudent and that it is unlawful.

(c) Penalties for violation of this section are as follows:

(1) Whoever violates this section shall for the first offense be fined $20. For each subsequent offense, the person shall be fined $25. A subsequent violation, before being punishable as such, shall have been committed within 24 months after the commission of the prior offense.

(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 fine of $1.00 per mile, if such violation is a first offense, or $2.00 per mile, if such violation is a subsequent offense, 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 fine of $2.00 per mile, if such violation is a first offense, or $3.00 per mile, if such violation is a subsequent offense, 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 fine of $3.00 per mile, if such violation is a first offense, or $4.00 per mile, if such violation is a second offense, for each mile in excess of the maximum speed limit.

(d) The Department of Transportation shall designate a maximum speed limit of 65 miles per hour for all portions of Delaware State Route 1 located between the Red Lion Creek and the Appoquinimink River, except for the delineated nonhighway speed toll plaza area. Such maximum limits may be posted on fixed or variable signs. Any speed in excess of such displayed limits shall be absolute evidence that the speed is not reasonable or prudent and that it is unlawful.

(21 Del. C. 1953 § 4169; 54 Del. Laws, c. 160 § 1; 55 Del. Laws, c. 362 §§ 1, 2; 56 Del. Laws, c. 172; 56 Del. Laws, c. 302; 57 Del. Laws, c. 670 §§ 13A, 13C; 60 Del. Laws, c. 700 § 7; 61 Del. Laws, c. 458 § 1; 65 Del. Laws, c. 503 § 18; 66 Del. Laws, c. 333 § 1; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 403 § 1; 75 Del. Laws, c. 323 § 1; 77 Del. Laws, c. 411 § 2; 78 Del. Laws, c. 208 § 7; 80 Del. Laws, c. 134 § 1.)

## § 4170 Speed limits set by local authorities.

(a) Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the absolute speed permitted under this chapter is greater than is reasonable or safe under the conditions found to exist, such local authority, subject to subsection (c) of this section, shall determine and declare a reasonable and safe absolute speed limit, which shall be effective when appropriate signs giving notice thereof are erected.

(b) Local authorities in their respective jurisdictions may at their discretion, but subject to subsection (c) of this section, authorize by ordinance higher absolute speeds than those stated in this chapter upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections provided signs are erected giving notice of the authorized speed, but local authorities shall not modify or alter the basic rule set forth in § 4168(a) of this title.

(c) Alteration of absolute limits on state-maintained highways in any municipality by local authorities shall not be effective until such alteration has been approved by the Department of Transportation.

(21 Del. C. 1953 § 4170; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 74 Del. Laws, c. 110 § 138; 79 Del. Laws, c. 224 § 1.)

## § 4171 Minimum speed.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) A minimum speed limit, below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, may be displayed on appropriate traffic-control devices.

(21 Del. C. 1953 § 4171; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 700 § 8; 60 Del. Laws, c. 701 § 44.)

## § 4172 Speed exhibitions; drag races and other speed contests.

(a) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration and no person shall aid, abet, promote, assist or in any manner participate in any such race, competition, contest, test or exhibition. A violation of this subsection shall be an unclassified misdemeanor.

(b) No person shall accelerate or try to accelerate a vehicle at a rate which causes the drive wheels to spin or slip on the road surface. This subsection shall not apply during periods of inclement weather.

(c) No owner or person in charge of a vehicle shall permit that vehicle or any vehicle under the person's control to be used by another person for any of the purposes listed in subsection (a) or (b) of this section. If any vehicle is witnessed by a police officer to be in violation of this section and the identity of the operator is not otherwise apparent, the person in whose name such vehicle is registered as the owner shall be held prima facie responsible for such violation.

(d) Whoever violates this section shall be fined for the first offense not less than $25 nor more than $200, or imprisoned not less than 10 days nor more than 30 days or both. For each subsequent like offense, the person shall be fined not less than $50 nor more than $400, or imprisoned not less than 15 days nor more than 60 days or both. Upon receiving notice of a conviction for a first offense, the Secretary shall forthwith suspend the driver's license of the person convicted, for a period of not longer than 6 months. Upon receiving notice of a conviction of a subsequent like offense, the Secretary shall suspend the driver's license for a 1-year period. Notwithstanding the foregoing, there shall not be a suspension of driver's license upon conviction for a first offense under subsection (b) of this section.

(21 Del. C. 1953 § 4172; 54 Del. Laws, c. 160 § 1; 56 Del. Laws, c. 315; 57 Del. Laws, c. 670 § 13B; 60 Del. Laws, c. 702 § 1; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 60 § 12.)

## § 4172A Malicious mischief by motor vehicle.

(a) No person shall operate a motor vehicle in such a manner as to cause wilful, wanton or reckless damage to or destruction of property owned by another person, party, company or corporation.

(b) No owner or person in charge of a motor vehicle shall permit that motor vehicle or any motor vehicle under the person's control to be operated by another person in such a manner as to cause wilful, wanton or reckless damage to or destruction of property owned by another

person, party, company or corporation, nor so as to cause or threaten to cause injury or death to any person.

(c) Whoever being an operator violates this section shall be guilty of an unclassified misdemeanor, and shall be fined for the first offense not less than $25 nor more than $200, or imprisoned not less than 10 days nor more than 30 days or both. Upon receiving the notice of such conviction, the Secretary shall forthwith suspend the driver's license of the person convicted, for a period of not longer than 6 months. For each subsequent like offense, the person shall be fined not less than $50 nor more than $400, or imprisoned not less than 15 days nor more than 60 days or both. Upon receiving a court record of conviction for a subsequent like offense, the Secretary shall suspend the driver's license for a 1-year period.

(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 guilty of an unclassified misdemeanor, and shall be fined for the first offense not less than $28.75 nor more than $230, or imprisoned not less than 10 days nor more than 30 days or both. For each subsequent like offense the person shall be fined not less than $57.50 nor more than $460, or imprisoned not less than 15 days nor more than 60 days or both.

(e) This section shall apply to the operation of motor vehicles on public highways and elsewhere throughout the State.

(60 Del. Laws, c. 702 § 4; 62 Del. Laws, c. 153 § 1; 68 Del. Laws, c. 9 § 30; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 60 § 13.)

## § 4173 Speed and weight limits on elevated structures.

(a) No person shall drive a vehicle over any bridge or elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such bridge has traffic-control devices displayed.

(b) No person shall drive a vehicle over any bridge or elevated structure constituting a part of a highway when such vehicle's gross weight, including carried load, is greater than the maximum weight which can be maintained with safety to such bridge or structure, when such structure has traffic-control devices displayed.

(c) The existence of traffic-control devices shall be conclusive evidence of the maximum speed or gross weight, including carried load, which can, with safety to any such structures, be maintained thereon.

(21 Del. C. 1953 § 4173; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 13A; 60 Del. Laws, c. 701 § 45.)

## § 4174 Complaint and summons in speed violations.

In every charge of violation of any speed regulation in this chapter, except §§ 4168 and 4172 of this title, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the maximum or minimum speed applicable at the location.

(21 Del. C. 1953 § 4174; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 46.)

# Subchapter IX

# Reckless Driving; Driving While Intoxicated

## § 4175 Reckless driving.

(a) No person shall drive any vehicle in wilful or wanton disregard for the safety of persons or property, and this offense shall be known as reckless driving.

(b) Whoever violates subsection (a) of this section shall for the first offense be fined not less than $100 nor more than $300, or be imprisoned not less than 10 nor more than 30 days, or both. For each subsequent like offense occurring within 3 years of a former offense, the person shall be fined not less than $300 nor more than $1,000, or be imprisoned not less than 30 nor more than 60 days, or both. No person who violates subsection (a) of this section shall receive a suspended sentence. However, for the first offense, the period of imprisonment may be suspended. Whoever is convicted of violating subsection (a) of this section and who has had the charge reduced from the violation of § 4177(a) of this title shall, in addition to the above, be ordered to complete a course of instruction or program of rehabilitation established under § 4177D of this title and to pay all fees in connection therewith. In such cases, the court disposing of the case shall note in the court's record that the offense was alcohol-related or drug-related and such notation shall be carried on the violator's motor vehicle record.

(21 Del. C. 1953 § 4175; 54 Del. Laws, c. 160 § 1; 65 Del. Laws, c. 503 § 19; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 315 § 6.)

## § 4175A Aggressive driving.

(a) No person shall drive any vehicle in an aggressive manner, as defined by this section, and such offense shall be known as aggressive driving.

(b) For purposes of this section, "aggressive manner" shall mean that an individual engages in continuous conduct which violates 3 or more of the following sections:

(1) Section 4107 of this title, relating to obedience to traffic-control devices;

(2) Section 4108 of this title, relating to traffic control signals;

(3) Section 4117 of this title, relating to overtaking on the right;

(4) Section 4122 of this title, relating to driving within a traffic lane;
(5) Section 4123 of this title, relating to following too closely;
(6) Section 4132 of this title, relating to yielding to the right-of-way;
(7) Section 4133 of this title, relating to vehicles entering the roadway;
(8) Section 4155 of this title, relating to use of turn signals;
(9) Section 4164 of this title, relating to stop signs and yield signs;
(10) Section 4166(d) of this title, relating to overtaking and passing school buses;
(11) Section 4168 of this title, relating to speed restrictions; and
(12) Section 4169, relating to specific speed limits.

(c) Whoever violates this section shall for the first offense be fined not less than $100 nor more than $300 or be imprisoned not less than 10 nor more than 30 days, or both. For each subsequent like offense occurring within 3 years of a former offense, the person shall be fined not less than $300 nor more than $1,000 or be imprisoned not less than 30 nor more than 60 days, or both, and the person shall have their driving privileges suspended for a period of 30 days.

(d) In addition to the penalties imposed pursuant to subsection (c) of this section, whoever violates this section shall be ordered to complete a course of instruction established by the Secretary to address behavior modification or attitudinal driving. The Secretary shall administer such courses and programs and adopt rules and regulations therefor, and shall establish a schedule of fees for enrollment in such courses and programs that shall not exceed the maximum fine imposed pursuant to subsection (c) of this section.

(e) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be prosecuted and convicted of both the offense of aggressive driving and 1 or more underlying offenses as defined elsewhere by the laws of the State.

(72 Del. Laws, c. 216 § 1; 73 Del. Laws, c. 113 § 1; 74 Del. Laws, c. 285 § 1.)

## § 4176 Careless or inattentive driving.

(a) Whoever operates a vehicle in a careless or imprudent manner, or without due regard for road, weather and traffic conditions then existing, shall be guilty of careless driving.

(b) Whoever operates a vehicle and who fails to give full time and attention to the operation of the vehicle, or whoever fails to maintain a proper lookout while operating the vehicle, shall be guilty of inattentive driving.

(c) Whoever violates this section shall for the first offense be fined not less than $25 nor more than $75. For each subsequent like offense occurring within 3 years of a former offense, the person shall be fined not less than $50 nor more than $95.

(d)(1) In addition to any other penalty imposed for an offense committed under this section, if the finder of fact determines that the commission of that offense contributed to the serious physical injury of a vulnerable user lawfully in the public right-of-way, the court shall:

a. Impose a sentence that requires the person convicted of the offense to:
1. Complete a traffic safety course approved by the Delaware Division of Motor Vehicles;
2. Perform up to 100 hours of community service, which must include activities related to driver improvement and providing public education on traffic safety;

b. Impose, but suspend on the condition that the person complete the requirements of paragraph (d)(1)a. of this section,
1. A fine of not more than $550; and
2. A suspension of driving privileges as provided in § 2733(a)(2) of this title; and
3. Set a hearing date up to 1 year from the date of sentencing. At that hearing, the court shall:
A. If the person has successfully completed the requirements described in paragraph (d)(1)a. of this section, dismiss the penalties imposed under paragraphs (d)(1)b.1. and 2. of this section.
B. If the person has not successfully completed the requirements described in paragraph (d)(1)a. of this section, either: I. Grant the person an extension based on good cause shown, or II. Impose the penalties under paragraphs (d)(1)b.1. and 2. of this section.

(2) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense contributed to the serious physical injury of a vulnerable user of the public right-of-way. If so noted, the person receiving the citation shall not be permitted to use the voluntary assessment process otherwise permitted under § 709 of this title.

(3) As used herein, "vulnerable user of a public right-of-way" means:
a. A pedestrian, including those persons actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; or
b. A person riding an animal; or
c. A person operating any of the following on a public right-of-way, crosswalk, or shoulder of the highway:
1. A farm tractor or similar vehicle designed primarily for farm use;
2. A skateboard;
3. Roller skates;
4. In-line skates;

5. A scooter;
6. A moped;
7. A bicycle; or
8. A motorcycle.

(21 Del. C. 1953 § 4175A; 56 Del. Laws, c. 305; 60 Del. Laws, c. 701 § 47; 65 Del. Laws, c. 503 § 20; 68 Del. Laws, c. 9 § 31; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 464 § 1; 78 Del. Laws, c. 208 §§ 8-10.)

## § 4176A Operation of a vehicle causing death; unclassified misdemeanor.

(a) A person is guilty of operation of a vehicle causing death 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 the death of another person.

(b) Operation of a vehicle causing death is an unclassified misdemeanor.

(c) Notwithstanding any provision of law to the contrary, a person convicted of operation of a vehicle causing death shall for the first offense be fined not more than $1,150 and imprisoned not more than 30 months. For each subsequent conviction under this section the person shall be fined not more than $2,300 and imprisoned not more than 60 months.

(d) The Superior Court has original and exclusive 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 which is within the original and/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 and exclusive jurisdiction of the Superior Court.

(74 Del. Laws, c. 99 § 1.)

## § 4176B Cell phone use by school bus drivers; penalties.

(a) No driver shall operate a school bus on any highway while using a cell telephone while such vehicle is in motion and such vehicle is transporting 1 or more children; provided, that this section shall not apply to communications made to and from a central dispatch, school transportation department or its equivalent when the bus is not equipped with a functioning 2-way radio.

(b) For the purposes of this section, "cell telephone" means a cellular, analog, wireless or digital telephone.

(c) Whoever violates this section shall for the first offense be fined not less than $50 nor more than $100. For each subsequent offense the person shall be fined 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.

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

(74 Del. Laws, c. 318 § 1; 70 Del. Laws, c. 186 § 1.)

## § 4176C Electronic communication devices; penalties.

(a) No person shall drive a motor vehicle on any highway while using an electronic communication device while such motor vehicle is in motion.

(b) For the purposes of this section, the following terms shall mean:

(1) "Cell telephone" shall mean a cellular, analog, wireless or digital telephone.

(2) "Electronic communication device" shall mean a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device.

(3) "Engages or engaging in a call" shall mean when a person talks into or listens on an electronic communication device, but shall not mean when a person dials or punches a phone number on an electronic communication device.

(4) "Hands-free electronic communication device" shall mean an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.

(5) "Hands-free equipment" shall mean the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call without the use of either hand or both hands.

(6) "Using" shall mean holding in a person's hand or hands an electronic communication device while:

a. Viewing or transmitting images or data;

b. Playing games;

c. Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or

d. Engaging in a call.

(c) Subsection (a) of this section shall not apply to:

(1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;

(2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report any crime;

(3) A person using a cell telephone who is operating a school bus and covered under § 4176B of this title;

(4) A person engaging in a call with a hands-free electronic communication device while utilizing hands-free equipment and such person does not hold the hands-free electronic communication device in such person's hand or hands;

(5) The activation or deactivation of hands-free equipment or a function of hands-free equipment;

(6) A person driving or operating an unregistered farm tractor, farm truck or farm equipment;

(7) Use of an amateur radio by an FCC-licensed amateur radio operator; and

(8) A person who during their course of employment with a business or government entity uses a 2-way radio mounted or attached to a motor vehicle to communicate with a central dispatch, base of operation, or with other employees of such business or government entity.

(d) Whoever violates this section shall for the first offense be subject to a civil penalty of $100. For each subsequent offense the person shall be subject to a civil penalty of not less than $200 nor more than $300. For each civil penalty of $100 that is assessed under this subsection, $20 shall be paid over to the State Treasury to be deposited into the Volunteer Ambulance Company Fund, in addition to the $10 penalty assessed pursuant to § 4101(j) of Title 11. For each civil penalty between $200 and $300 that is assessed under this subsection, 20% shall be paid over to the State Treasury to be deposited into the Volunteer Ambulance Company Fund, in addition to the $10 penalty assessed pursuant to § 4101(j) of Title 11.

(e) No motor vehicle points shall be assessed for a violation of this section.

(77 Del. Laws, c. 343 § 1; 77 Del. Laws, c. 344 § 1; 77 Del. Laws, c. 345 § 1; 78 Del. Laws, c. 279 § 1; 80 Del. Laws, c. 405 § 1.)

## § 4176D Operation of a motor vehicle during an emergency.

(a) No person shall operate a motor vehicle on a highway, express highway, roadway or private road as defined in § 101 of this title when a Level 3 Driving Ban or a Level 2 Driving Restriction has been activated during an emergency, unless the person is a first responder, essential personnel, or a waiver has been granted, pursuant to § 3116(b)(12) of Title 20.

(b) Whoever violates this section shall for the first offense be fined not less than $25 nor more than $115. For each subsequent like offense, the person shall be fined not less than $50 nor more than $200, or imprisoned not less than 10 nor more than 30 days, or both.

(77 Del. Laws, c. 447 § 1.)

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

(a) No person shall drive a vehicle:

(1) When the person is under the influence of alcohol;

(2) When the person is under the influence of any drug;

(3) When the person is under the influence of a combination of alcohol and any drug;

(4) When the person's alcohol concentration is .08 or more; or

(5) When the person's alcohol concentration is, within 4 hours after the time of driving .08 or more. Notwithstanding any other provision of the law to the contrary, a person is guilty under this subsection, without regard to the person's alcohol concentration at the time of driving, if the person's alcohol concentration is, within 4 hours after the time of driving .08 or more and that alcohol concentration is the result of an amount of alcohol present in, or consumed by the person when that person was driving;

(6) When the person's blood contains, within 4 hours of driving, any amount of an illicit or recreational drug that is the result of the unlawful use or consumption of such illicit or recreational drug or any amount of a substance or compound that is the result of the unlawful use or consumption of an illicit or recreational drug prior to or during driving.

(b) In a prosecution for a violation of subsection (a) of this section:

(1) Except as provided in paragraph (b)(3)b. of this section, the fact that any person charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not constitute a defense.

(2)a. No person shall be guilty under paragraph (a)(5) of this section when the person has not consumed alcohol prior to or during driving but has only consumed alcohol after the person has ceased driving and only such consumption after driving caused the person to have an alcohol concentration of .08 or more within 4 hours after the time of driving.

b. No person shall be guilty under paragraph (a)(5) of this section when the person's alcohol concentration was .08 or more at the time of testing only as a result of the consumption of a sufficient quantity of alcohol that occurred after the person ceased driving and before any sampling which raised the person's alcohol concentration to .08 or more within 4 hours after the time of driving.

(3)a. No person shall be guilty under paragraph (a)(6) of this section when the person has not used or consumed an illicit or recreational drug prior to or during driving but has only used or consumed such drug after the person has ceased driving and only such use or consumption after driving caused the person's blood to contain an amount of the drug or an amount of a substance or compound that is the result of the use or consumption of the drug within 4 hours after the time of driving.

b. No person shall be guilty under paragraph (a)(6) of this section when the person has used or consumed the drug or drugs detected according to the directions and terms of a lawfully obtained prescription for such drug or drugs.

c. Nothing in this subsection nor any other provision of this chapter shall be deemed to preclude prosecution under paragraph (a)(2) or (a)(3) of this section.

(4) The charging document may allege a violation of subsection (a) of this section without specifying any particular paragraph of subsection (a) of this section and the prosecution may seek conviction under any of the paragraphs of subsection (a) of this section.

(c) For purposes of subchapter III of Chapter 27 of this title and this subchapter, the following definitions shall apply:

(1) "Alcohol concentration of .08 or more" shall mean:

a. An amount of alcohol in a sample of a person's blood equivalent to .08 or more grams of alcohol per 100 milliliters of blood; or

b. An amount of alcohol in a sample of a person's breath equivalent to .08 or more grams per 210 liters of breath.

(2) "Alcohol concentration of .15 or more" shall mean:

a. An amount of alcohol in a sample of a person's blood equivalent to .15 or more grams of alcohol per 100 milliliters of blood; or

b. An amount of alcohol in a sample of a person's breath equivalent to .15 or more grams per 210 liters of breath.

(3) "Alcohol concentration of .20 or more" shall mean:

a. An amount of alcohol in a sample of a person's blood equivalent to .20 or more grams of alcohol per 100 milliliters of blood; or

b. An amount of alcohol in a sample of a person's breath equivalent to .20 or more grams per 210 liters of breath.

(4) "Chemical test" or "test" shall include any form or method of analysis of a person's blood, breath or urine for the purposes of determining alcohol concentration or the presence of drugs which is approved for use by the Forensic Sciences Laboratory, Division of Forensic Science, the Delaware State Police Crime Laboratory, any state or federal law-enforcement agency, or any hospital or medical laboratory. It shall not, however, include a preliminary screening test of breath performed in order to estimate the alcohol concentration of a person at the scene of a stop or other initial encounter between an officer and the person.

(5) "Drive" shall include driving, operating, or having actual physical control of a vehicle.

(6) "Drug" shall include any substance or preparation defined as such by Title 11 or Title 16 or which has been placed in the schedules of controlled substances pursuant to Chapter 47 of Title 16. "Drug" shall also include any substance or preparation having the property of releasing vapors or fumes which may be used for the purpose of producing a condition of intoxication, inebriation, exhilaration, stupefaction or lethargy or for the purpose of dulling the brain or nervous system.

(7) "Illicit or recreational drug" as that phrase is used in paragraph (a)(6) of this section means any substance or preparation that is:

a. Any material, compound, combination, mixture, synthetic substitute or preparation which is enumerated as a Schedule I controlled substance under § 4714 of Title 16; or

b. Cocaine or of any mixture containing cocaine, as described in § 4716(b)(4) of Title 16; or

c. Amphetamine, including its salts, optical isomers and salt of its optical isomers, or of any mixture containing any such substance, as described in § 4716(d)(1) of Title 16; or

d. Methamphetamine, including its salt, isomer or salt of an isomer thereof, or of any mixture containing any such substance, as described in § 4716(d)(3) of Title 16; or

e. Phencyclidine, or of any mixture containing any such substance, as described in § 4716(e)(5) of Title 16; or

f. A designer drug as defined in § 4701 of Title 16; or

g. A substance or preparation having the property of releasing vapors or fumes which may be used for the purpose of producing a condition of intoxication, inebriation, stupefaction or lethargy or for the purpose of dulling the brain or nervous system.

(8) "Unlawful use or consumption" as that phrase is used in paragraph (a)(6) of this section means that the person used or consumed a drug without legal authority to do so as provided by Delaware law. This Code describes the procedure by which a person may lawfully obtain, use or consume certain drugs. In a prosecution brought under paragraph (a)(6) of this section, the State need not present evidence of a lack of such legal authority. In a prosecution brought under paragraph (a)(6) of this section, if a person claims that such person lawfully used or consumed a drug, it is that person's burden to show that person has complied with and satisfied the provisions of this Code regarding obtaining, using or consumption of the drug detected.

(9) "Substance or compound that is the result of the unlawful use or consumption of an illicit or recreational drug" as that phrase is used in paragraph (a)(6) of this section shall not include any substance or compound that is solely an inactive ingredient or inactive metabolite of such drug.

(10) "Vehicle" shall include any vehicle as defined in § 101(82) of this title, any off-highway vehicle as defined in § 101(41) of this title and any moped as defined in § 101(33) of this title.

(11) "While under the influence" shall mean that the person is, because of alcohol or drugs or a combination of both, less able than the person would ordinarily have been, either mentally or physically, to exercise clear judgment, sufficient physical control, or due care in the driving of a vehicle.

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

(1) For the first offense, be fined not less than $500 nor more than $1,500 or imprisoned not more than 12 months or both. Any period of imprisonment imposed under this paragraph may be suspended.

(2) For a second offense occurring at any time within 10 years of a prior offense, be fined not less than $750 nor more than $2,500 and imprisoned not less than 60 days nor more than 18 months. The minimum sentence for a person sentenced under this paragraph may not be suspended. The sentencing Court may suspend the minimum sentence set forth in this subsection upon the condition that the offender

shall successfully complete the Court of Common Pleas Driving Under the Influence Treatment Program in which the offender shall complete a minimum of 30 days of community service.

(3) For a third offense occurring at any time after 2 prior offenses, be guilty of a class G felony, be fined not more than $5,000 and be imprisoned not less than 1 year nor more than 2 years. The provisions of § 4205(b)(7) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the first 3 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 9 months of any minimum sentence set forth in this paragraph provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section.

(4) For a fourth offense occurring any time after 3 prior offenses, be guilty of a class E felony, be fined not more than $7,000, and imprisoned not less than 2 years nor more than 5 years. The provisions of § 4205(b)(5) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the first 6 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 18 months of any minimum sentence set forth in this paragraph provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section.

(5) For a fifth offense occurring any time after 4 prior offenses, be guilty of a class E felony, be fined not more than $10,000 and imprisoned not less than 3 years nor more than 5 years.

(6) For a sixth offense occurring any time after 5 prior offenses, be guilty of a class D felony, be fined not more than $10,000 and imprisoned not less than 4 years nor more than 8 years.

(7) For a seventh offense occurring any time after 6 prior offenses, or for any subsequent offense, be guilty of a class C felony, be fined not more than $15,000 and imprisoned not less than 5 years nor greater than 15 years.

(8) For the fifth, sixth, seventh offense or greater, the provisions of § 4205(b) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, at least 1/2 of any minimum sentence shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 1/2 of any minimum sentence set forth in this section provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section. No conviction for a violation of this section, for which a sentence is imposed pursuant to this paragraph or paragraph (d)(3) or (d)(4) of this section, shall be considered a predicate felony for conviction or sentencing pursuant to § 4214 of Title 11. No offense for which sentencing pursuant to this paragraph or paragraph (d)(3) or (d)(4) of this section is applicable shall be considered an underlying felony for a murder in the first degree charge pursuant to § 636(a)(2) of Title 11.

(9) Any minimum sentence suspended pursuant to paragraph (d)(3), (d)(4), or (d)(8) of this section shall be upon the condition that the offender shall complete a program of supervision which shall include:

a. A drug and alcohol abstinence program requiring that the offender maintain a period of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring, the offender shall participate in periodic, random breath or urine analysis during the entire period of supervision.

b. An intensive inpatient or outpatient drug and alcohol treatment program for a period of not less than 3 months. Such treatment and counseling may be completed while an offender is serving a Level V or Level IV sentence.

c. Any other terms or provisions deemed appropriate by the sentencing court or the Department of Correction.

(10) In addition to the penalties otherwise authorized by this subsection, any person convicted of a violation of subsection (a) of this section, committed while a person who has not yet reached the person's seventeenth birthday is on or within the vehicle shall:

a. For the first offense, be fined an additional minimum of $500 and not more than an additional $1,500 and sentenced to perform a minimum of 40 hours of community service in a program benefiting children.

b. For each subsequent like offense, be fined an additional minimum of $750 and not more than an additional $2,500 and sentenced to perform a minimum of 80 hours of community service in a program benefiting children.

c. Violation of this paragraph shall be considered as an aggravating circumstance for sentencing purposes for a person convicted of a violation of subsection (a) of this section. Nothing in this paragraph shall prevent conviction for a violation of both subsection (a) of this section and any offense as defined elsewhere by the laws of this State.

d. Violation of or sentencing pursuant to this paragraph shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim, nor shall a violation of or sentencing pursuant to this paragraph be admissible as evidence in the trial of any civil action.

(11) A person who has been convicted of prior or previous offenses of this section, as defined in § 4177B(e) of this title, need not be charged as a subsequent offender in the complaint, information or indictment against the person in order to render the person liable for the punishment imposed by this section on a person with prior or previous offenses under this section. However, if at any time after conviction and before sentence, it shall appear to the Attorney General or to the sentencing court that by reason of such conviction and prior or previous convictions, a person should be subjected to paragraph (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7) of this section, the Attorney General shall file a motion to have the defendant sentenced pursuant to those provisions. If it shall appear to the satisfaction of the court at a hearing on the motion that the defendant falls within paragraph (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7) of this section, the court shall

enter an order declaring the offense for which the defendant is being sentenced to be a felony and shall impose a sentence accordingly.

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

(13) [Effective until June 30, 2017] Section 5303 of Title 11 notwithstanding, where the Court of Common Pleas and Justice of the Peace Courts have concurrent jurisdiction over a violation of this section, either the State or the accused may elect within 20 days of arraignment in the Justice of the Peace Court to have the case tried by the Court of Common Pleas. If an offense or criminal case within the exclusive jurisdiction of a justice of the peace or alderman or mayor of any incorporated city of town, except the City of Newark, is or may be joined properly with a violation of this section which has been transferred upon the election of the State or the accused, such offense or criminal case shall be within the jurisdiction of the Court of Common Pleas.

(14) If a person enters a guilty plea in a court of competent jurisdiction to a violation of subsection (a) of this section, such action shall constitute a waiver of the right to an administrative hearing as provided for in § 2742 of this title and shall act to withdraw any request previously made therefor.

(15) Notwithstanding any law to the contrary, the phrase "all crimes" as used in the Truth in Sentencing Act of 1989 shall include felonies under this section, and any amendments thereto.

(e) In addition to any penalty for a violation of subsection (a) of this section, the court shall prohibit the person convicted from operating any motor vehicle unless such motor vehicle is equipped with a functioning ignition interlock device; the terms of installation of the device and licensing of the individual to drive shall be as set forth in § 4177C and § 4177G of this title. A person who is prohibited from operating any motor vehicle unless such motor vehicle is equipped with a functioning ignition interlock device under this title at the time of an offense under subsection (a) of this section shall, in addition to any other penalties provided under law, pay a fine of $2,000 and be imprisoned for 60 days.

(f) In addition to any penalty for a violation of subsection (a) of this section, the court shall order the person to complete an alcohol evaluation and to complete a program of education or rehabilitation pursuant to § 4177D of this title which may include inpatient treatment and be followed by such other programs as established by the treatment facility, not to exceed a total of 15 months and to pay a fee not to exceed the maximum fine; provided however, that successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

(g) For purposes of a conviction premised upon subsection (a) of this section, or any proceeding pursuant to this Code in which an issue is whether a person was driving a vehicle while under the influence, evidence establishing the presence and concentration of alcohol or drugs in the person's blood, breath or urine shall be relevant and admissible. Such evidence may include the results from tests of samples of the person's blood, breath or urine taken within 4 hours after the time of driving or at some later time. In any proceeding, the resulting alcohol or drug concentration reported when a test, as defined in paragraph (c)(3) of this section, is performed shall be deemed to be the actual alcohol or drug concentration in the person's blood, breath or urine without regard to any margin of error or tolerance factor inherent in such tests.

(1) Evidence obtained through a preliminary screening test of a person's breath in order to estimate the alcohol concentration of the person at the scene of a stop or other initial encounter between a law-enforcement officer and the person shall be admissible in any proceeding to determine whether probable cause existed to believe that a violation of this Code has occurred. However, such evidence may only be admissible in proceedings for the determination of guilt when evidence or argument by the defendant is admitted or made relating to the alcohol concentration of the person at the time of driving.

(2) Nothing in this section shall preclude conviction of an offense defined in this Code based solely on admissible evidence other than the results of a chemical test of a person's blood, breath or urine to determine the concentration or presence of alcohol or drugs.

(3) A jury shall be instructed by the court in accordance with the applicable provisions of this subsection in any proceeding pursuant to this Code in which an issue is whether a person was driving a vehicle while under the influence of alcohol or drugs or a combination of both.

(h)(1) For the purpose of introducing evidence of a person's alcohol concentration or the presence or concentration of any drug pursuant to this section, a report signed by the Forensic Toxicologist, Forensic Chemist or State Police Forensic Analytical Chemist who performed the test or tests as to its nature is prima facie evidence, without the necessity of the Forensic Toxicologist, Forensic Chemist or State Police Forensic Analytical Chemist personally appearing in court:

a. That the blood delivered was properly tested under procedures approved by the Division of Forensic Science, or the Delaware State Police Crime Laboratory;

b. That those procedures are legally reliable;

c. That the blood was delivered by the officer or persons stated in the report; and,

d. That the blood contained the alcohol, drugs or both therein stated.

(2) Any report introduced under paragraph (h)(1) of this section must:

a. Identify the Forensic Toxicologist, Forensic Chemist or State Police Forensic Analytical Chemist as an individual certified by the Division of Forensic Science, the Delaware State Police Crime Laboratory or any county or municipal police department employing scientific analysis of blood, as qualified under standards approved by the Division of Forensic Science, or the Delaware State Police Crime Laboratory to analyze the blood;

b. State that the person made an analysis of the blood under the procedures approved by the Division of Forensic Science or the Delaware State Police Crime Laboratory; and,

c. State that the blood, in that person's opinion, contains the resulting alcohol concentration or the presence or concentration of any drug within the meaning of this section.

Nothing in this subsection precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in the report entered pursuant to paragraphs (h)(1) and (2) of this section.

(3) For purposes of establishing the chain of physical custody or control of evidence defined in this section which is necessary to admit such evidence in any proceeding, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery stated, without the necessity of a personal appearance in court by the person signing the statement, in accordance with the same procedures outlined in § 4331(3) of Title 10.

(4) In a criminal proceeding, the prosecution shall, upon written demand of a defendant filed in the proceedings at least 15 days prior to the trial, require the presence of the Forensic Toxicologist, Forensic Chemist, State Police Forensic Analytical Chemist, or any person necessary to establish the chain of custody as a witness in the proceeding. The chain of custody or control of evidence defined in this section is established when there is evidence sufficient to eliminate any reasonable probability that such evidence has been tampered with, altered or misidentified.

(i) In addition to any other powers of arrest, any law-enforcement officer is hereby authorized to arrest without a warrant any person who the officer has probable cause to believe has violated the provisions of this section, regardless of whether the alleged violation was committed in the presence of such officer. This authority to arrest extends to any hospital or other medical treatment facility located beyond the territorial limits of the officer's jurisdiction provided there is probable cause to believe that the violation of this section occurred within the officer's jurisdiction. This authority to arrest also extends to any place where the person is found within 4 hours of the alleged driving of a vehicle if there is reason to believe the person has fled the scene of an accident in which that person was involved, and provided there is probable cause to believe that the violation of this section occurred within the officer's jurisdiction.

(j) Any court in which a conviction of or guilty plea to a driving under the influence offense shall include the blood alcohol concentration of the defendant (if any is on record) when forwarding notice of said conviction or guilty plea to the Division of Motor Vehicles.

(21 Del. C. 1953 § 4176; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 71 §§ 1-3; 57 Del. Laws, c. 526 §§ 1, 2; 57 Del. Laws, c. 613 § 1; 57 Del. Laws, c. 670 § 13B; 58 Del. Laws, c. 80 § 3; 59 Del. Laws, c. 46 §§ 1, 2; 60 Del. Laws, c. 701 §§ 48, 49; 60 Del. Laws, c. 702 § 2; 61 Del. Laws, c. 474 § 2; 64 Del. Laws, c. 13 § 13; 67 Del. Laws, c. 437 §§ 1, 2; 68 Del. Laws, c. 9 § 32; 68 Del. Laws, c. 125 § 1; 69 Del. Laws, c. 325 §§ 2, 3; 70 Del. Laws, c. 26 §§ 1-8; 70 Del. Laws, c. 34 § 1; 70 Del. Laws, c. 62 §§ 1-8; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 265 § 2; 70 Del. Laws, c. 474 § 1; 70 Del. Laws, c. 553 § 2; 71 Del. Laws, c. 209 §§ 1, 2; 71 Del. Laws, c. 222 §§ 2, 3; 72 Del. Laws, c. 36 §§ 1-3, 5, 6; 73 Del. Laws, c. 352 §§ 1, 11; 73 Del. Laws, c. 432 § 4; 74 Del. Laws, c. 182 §§ 1-3; 74 Del. Laws, c. 285 § 4; 74 Del. Laws, c. 333 §§ 1, 2; 75 Del. Laws, c. 315 §§ 1-5; 75 Del. Laws, c. 397 § 15; 77 Del. Laws, c. 162 §§ 1-6; 78 Del. Laws, c. 167 §§ 1-18; 78 Del. Laws, c. 349 § 1; 79 Del. Laws, c. 265 § 16; 79 Del. Laws, c. 378 §§ 3, 5; 79 Del. Laws, c. 396 § 2; 80 Del. Laws, c. 75 § 2; 80 Del. Laws, c. 120 § 1; 80 Del. Laws, c. 136 § 1; 80 Del. Laws, c. 168 § 1; 80 Del. Laws, c. 289 § 1.)

## § 4177A Revocation of license for violation of § 4177 of this title.

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

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

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

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

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

(b) Any person sentenced under § 4177(d) of this title shall have the person's driver's license and/or driving privileges revoked by the Secretary until the person has satisfactorily completed a program established pursuant to 4177D of this title and complied with the ignition interlock device requirements set forth in §§ 4177C and 4177G of this title; provided however, that successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

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

(61 Del. Laws, c. 474 § 2; 63 Del. Laws, c. 430 §§ 13, 14; 64 Del. Laws, c. 13 §§ 14, 15; 69 Del. Laws, c. 125 § 2; 69 Del. Laws, c. 190 § 1; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 352 § 2; 73 Del. Laws, c. 432 § 1; 75 Del. Laws, c. 397 §§ 1-3, 16-18; 78 Del. Laws, c. 167 § 20; 79 Del. Laws, c. 378 § 2; 79 Del. Laws, c. 396 § 2.)

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

(a) Any person who:

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

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

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

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

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

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

may qualify for the first offense election at the time of arraignment. The court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and shall place the accused on probation upon terms and conditions, including enrollment in a course of instruction or program of rehabilitation established pursuant to § 4177D of this title. If the accused elects to apply, the application shall constitute a waiver of the right to speedy trial. If the person elects not to apply, or if is not accepted, the person shall promptly be arraigned for a violation of § 4177 of this title. If a person applies for or accepts the first offense election under this section, such act shall constitute agreement to pay the costs of prosecution for the case, and the court shall assess such costs and impose them as a condition of probation. If a person accepts the first offense election under this section, such action shall constitute a waiver of the right to an administrative hearing as provided for in § 2742 of this title and shall act to withdraw any request previously made therefor. For the purposes of this section, costs of prosecution shall be $250 and any additional costs as established by the appropriate court schedules; and

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

(c) Upon fulfillment of the terms and conditions of probation, including satisfactory completion of the course of instruction and/or program of rehabilitation, and payment of all fees, the court shall discharge the person and the proceedings against the person and shall simultaneously with said discharge and dismissal submit to the Division of Motor Vehicles a written report specifying the name of the person and the nature of the proceedings against the person which report shall be retained by the Division of Motor Vehicles for further proceedings, if required.

(d) The driver's license and/or driving privileges of a person applying for enrollment in an education or rehabilitation program pursuant to subsection (a) of this section shall forthwith be revoked by the Secretary for a period of 1 year. If the person is accepted into the education or rehabilitation program the period of revocation shall be for 1 year from the date of the initial revocation. If the person is not accepted for enrollment, or if the person is found by the court to be in violation of the terms of enrollment, the revocation under this section shall continue until sentence is imposed. This revocation shall not be concurrent with or part of any period of revocation established under any other provisions of this subchapter and shall be effective as of the date of sentencing for a period of 1 year.

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

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

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

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

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

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

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

b. For sentencing pursuant to § 4177(d)(3), (d)(4), (d)(5), (d)(6), (d)(7), (d)(8) or (d)(9) of this title there shall be no time limitation and all prior or previous convictions or offenses as defined in paragraph (e)(1) of this section shall be considered for

sentencing.

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

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

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

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

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

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

(2) Paragraphs (a)(2), (a)(3), (a)(4), (a)(5) and (a)(6) of this section.

(3) [Repealed.]

In the event of such a motion by the Attorney General, the court may in its discretion apply the terms of this section to that person.

(g) [Repealed.]

(61 Del. Laws, c. 474 § 2; 63 Del. Laws, c. 430 § 15; 64 Del. Laws, c. 13 § 16; 69 Del. Laws, c. 134 § 1; 70 Del. Laws, c. 26 §§ 9, 10; 70 Del. Laws, c. 34 §§ 2, 3; 70 Del. Laws, c. 62 §§ 9, 10; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 209 §§ 3-5; 72 Del. Laws, c. 92 §§ 1, 2; 74 Del. Laws, c. 182 § 4; 74 Del. Laws, c. 333 § 3; 74 Del. Laws, c. 345 § 8; 75 Del. Laws, c. 397 § 4; 77 Del. Laws, c. 160 §§ 1, 2; 77 Del. Laws, c. 162 § 7; 78 Del. Laws, c. 167 §§ 21-27; 79 Del. Laws, c. 396 § 2.)

## § 4177C Ignition interlock licenses; reinstatement of license.

(a) Any person who has entered a first offense election pursuant to § 4177B of this title shall be immediately eligible to apply for an ignition interlock device license under the following terms:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) For a person sentenced for a first offense pursuant to § 4177 of this title, whose blood alcohol concentration was .15 to .19, at least 17 months have elapsed since the day the IID was installed on the vehicle or vehicles and the ignition interlock license was issued.

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

(6) For a person sentenced for a second offense pursuant to § 4177 of this title, at least 16 months have elapsed since the day the IID was installed on the vehicle or vehicles and the ignition interlock license was issued.

(7) For a person sentenced for a second offense pursuant to § 4177 of this title, whose blood alcohol concentration was .15 to .19, at least 22 months have elapsed since the day the IID was installed on the vehicle or vehicles and the ignition interlock license was issued.

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

(9) For a person sentenced for a third offense pursuant to § 4177 of this title, at least 21 months have elapsed since the day the IID was installed on the vehicle or vehicles and the ignition interlock license was issued.

(10) For a person sentenced for a third offense pursuant to § 4177 of this title, whose blood alcohol concentration was .15 to .19, at least 27 months have elapsed since the day the IID was installed on the vehicle or vehicles and the ignition interlock license was issued.

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

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

(e) Notwithstanding any other provision to the contrary, any person whose alcohol concentration is less than .08 (1) who is convicted of a first offense pursuant to § 4177 of this title, (2) who makes a first offense election pursuant to 4177B of this title, or (3) whose license is revoked for a first offense pursuant to Chapter 27 of this title, where it is not established that the person was under the influence of any other intoxicating substance, shall be granted a conditional license immediately upon application, and shall not be required to complete a course of instruction established under 4177D of this title. Nothing in this subsection shall be read to imply that an individual with an alcohol concentration of less than .08 is under the influence of alcohol.

(f) Notwithstanding any other provision to the contrary, any person charged with a driving under the influence offense who has been permitted to participate in the Court of Common Pleas Driving Under the Influence Treatment Program, and is enrolled in a program of rehabilitation and treatment, pursuant to § 4177(f) or § 4177D of this title, supervised by that Court shall be eligible to have a conditional license in accordance with this subsection. A person may enter the Treatment Program without seeking a conditional license. If the person chooses to obtain a conditional license, or has any registered vehicles, the person shall be required to have an ignition interlock device installed on all vehicles registered in that person's name. Alternatively, the person has the option to have the device installed on a vehicle or vehicles owned by another person, with the permission of that person, if there are no vehicles registered in the name of the offender. The ignition interlock device shall be immediately installed on eligible vehicles following the effective date of entry into the Driving Under the Influence Treatment Program. The ignition interlock device shall remain installed on the vehicle or vehicles for a minimum period of 12 months from the effective date of revocation or longer if the Court directs. That offender may be eligible to apply for an ignition interlock device license under the following terms:

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

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

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

(g) Notwithstanding §§ 4177A and 4177B of this title, any person who has successfully completed and graduated from the Court of Common Pleas Driving Under the Influence Treatment Program, shall be permitted to apply for reinstatement of their driver's license and/or driving privilege under the following terms:

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

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

(3) At least 12 months have elapsed since the day the ignition interlock device was installed on the vehicle or vehicles and the ignition interlock license was issued or since the day driving privileges were revoked if no conditional license was sought.

(61 Del. Laws, c. 474 § 2; 63 Del. Laws, c. 430 §§ 16, 17; 64 Del. Laws, c. 13 §§ 17, 18; 70 Del. Laws, c. 186 § 1; 72 Del. Laws, c. 92 § 4; 73 Del. Laws, c. 352 §§ 3-5; 74 Del. Laws, c. 333 § 6; 75 Del. Laws, c. 397 §§ 5, 6; 77 Del. Laws, c. 160 §§ 3-6; 78 Del. Laws, c. 167 § 28; 79 Del. Laws, c. 378 § 1; 79 Del. Laws, c. 396 § 2; 80 Del. Laws, c. 75 § 1.)

## § 4177D Courses of instruction; rehabilitation programs.

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

(61 Del. Laws, c. 474 § 2; 63 Del. Laws, c. 430 § 18; 64 Del. Laws, c. 13 § 19; 74 Del. Laws, c. 110 § 87; 79 Del. Laws, c. 378 § 4.)

## § 4177E Issuance of conditional license upon revocation of driver's license.

(63 Del. Laws, c. 56 § 1; 68 Del. Laws, c. 9 § 33; 70 Del. Laws, c. 553 § 3; 77 Del. Laws, c. 60 § 14; Del. Laws, c. 396 § 2.)

## § 4177F Ignition Interlock Device Program.

(67 Del. Laws, c. 437 § 4; 68 Del. Laws, c. 125 §§ 2-5; 70 Del. Laws, c. 553 § 1; 72 Del. Laws, c. 92 §§ 5-12, 14; 73 Del. Laws, c. 352 §§ 6-8; 74 Del. Laws, c. 110 § 88; 75 Del. Laws, c. 397 §§ 7, 11; Del. Laws, c. 396 § 2.)

## § 4177G Ignition Interlock Device Program.

(a) Participation. — All persons convicted of an offense must participate in the Ignition Interlock Device Program as specified herein.

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

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

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

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

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

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

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

(d) Requirements. —

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

(2) Except as otherwise provided in § 4177C of this title for first offenders, a person covered under paragraph (d)(1) of this section must have the ignition interlock device installed in all motor vehicles that the person owns or operates, or both, for the required minimum periods as specified in § 4177C(d) of this title prior to the reinstatement of that person's driver's license.

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

(e) Installment payment of costs; indigent program. — The Division of Motor Vehicles shall establish a payment plan for all persons obtaining an IID under this section. The plan shall be administered by the service provider(s) and the person obtaining the IID shall make all payments under the plan to the service provider(s). The Division shall further develop and implement an indigent plan for impoverished persons, which shall be available on a lottery basis. For every 20 devices installed at regular prices, at least 1 device shall be provided at approximately half price under this program.

(f) IID license. —

(1) All persons convicted of an offense shall be eligible for an IID license as set forth in § 4177C of this title if the following conditions are met:

a. The offender must be a Delaware resident;

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

c. The offender's driving privileges or license must not be currently suspended, revoked, denied or unavailable for any other violations of the law of any jurisdiction that would prohibit the issuance of the IID, unless it is determined by the Secretary of

Transportation or the Secretary's designee that the individual is eligible for reinstatement;

d. The offender's driving privilege or license must not be revoked pursuant to § 1009 of Title 10 or a like provision of another jurisdiction;

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

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

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

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

(2) An offender shall lose the privilege of having an IID license for failure to comply with any of the following:

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

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

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

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

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

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

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

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

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

j. The offender shall keep scheduled appointments with the Division and the service provider; and

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

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

a. Each BAC reading of .05 or above;

b. Running retest violation;

c. Each missed monitoring appointment;

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

e. Tampering with or bypassing the interlock system;

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

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

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

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

(73 Del. Laws, c. 352 § 9; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 89; 75 Del. Laws, c. 397 §§ 8, 9, 13; 77 Del. Laws, c. 183 § 1; 79 Del. Laws, c. 396 § 2.)

## § 4177H Certification and approval of devices.

(a) The Division of Motor Vehicles shall adopt and publish rules setting forth the requirements for obtaining certification of an ignition interlock device. No ignition interlock device shall be certified unless it meets the requirements specified and published by the Division. Such requirements shall include provisions for setting a calibration range which complies with § 4177F of this title [repealed] and any other applicable law; and which shall include, but not be limited to, specifications that the device:

(1) Does not impede the safe operation of the vehicle;

(2) Has features that make circumvention difficult, but which do not interfere with the normal use of the vehicle; and

(3) Resists tampering, and shows evidence of tampering if tampering is attempted.

(b) The cost of certification shall be borne by each manufacturer of an ignition interlock device who desires to have such device certified in this State.

(67 Del. Laws, c. 437 § 4; 79 Del. Laws, c. 396 § 2.)

## § 4177I Applicability of conforming statutes or ordinances.

Any references to § 4177, § 4177A, § 4177B, § 4177C, § 4177D, § 4177E [repealed], or § 4177L of this title shall include all conforming statutes of any other state or the District of Columbia, or local ordinances in conformity therewith.

(63 Del. Laws, c. 430 § 19; 64 Del. Laws, c. 13 § 20; 70 Del. Laws, c. 36 § 9; 79 Del. Laws, c. 396 § 2.)

## § 4177J Drinking while driving prohibited.

(a) No person shall consume an alcoholic beverage while driving a motor vehicle upon the highways of this State. "Consume," as used in this subsection, shall mean the ingestion of a substance containing alcohol while in the act of operating a motor vehicle in the presence of, or in the view of, a police officer.

(b) Whoever violates this section shall be fined for the first offense not less than $25 nor more than $200. For each subsequent like offense occurring within 1 year of the previous offense, the person shall be fined not less than $50 nor more than $400.

(66 Del. Laws, c. 366 § 1.)

## § 4177K Revocation of license for persons convicted of all drug offenses.

(67 Del. Laws, c. 148 § 1; 67 Del. Laws, c. 429 §§ 6-8; 69 Del. Laws, c. 125 §§ 3, 4; 69 Del. Laws, c. 190 § 2; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 408 § 2; 73 Del. Laws, c. 414 § 2; 74 Del. Laws, c. 273 § 2; 76 Del. Laws, c. 94 §§ 1, 2; 78 Del. Laws, c. 13 § 70; Del. Laws, c. 295 § 1, eff July 9, 2014.)

## § 4177L Driving by persons under the age of 21 after consumption of alcohol; penalties.

(a) Whoever, being under the age of 21 years, drives, operates or has actual physical control of a vehicle, an off-highway vehicle or a moped while consuming or after having consumed alcoholic liquor shall have that person's driver's license and/or privileges revoked for a period of 2 months for the first offense and not less than 6 months nor more than 12 months for each subsequent offense. If the underage person does not have a driver's license and/or privileges, the person shall be fined $200 for the first offense and not less than $400 nor more than $1,000 for each subsequent offense.

(b) In any proceeding under this section, evidence may be admitted of the amount of alcohol in the blood or breath of such underage person as determined by a specimen taken within 4 hours of the time when such person is alleged to have driven, operated or been in control of a vehicle after having consumed alcoholic liquor as shown by an analysis of that person's breath, blood, urine, or saliva. Evidence that there was at the time of the test an alcohol concentration of .02 or more in that person's blood or breath is per se evidence that the person had consumed alcoholic liquor. "Alcohol concentration of .02 or more in that person's blood or breath" shall mean (1) an amount of alcohol in a sample of a person's blood equivalent to .02 or more grams of alcohol per hundred milliliters of blood; or (2) an amount of alcohol in a sample of a person's breath equivalent to .02 or more grams per 210 liters of breath. This provision shall not preclude a conviction based upon other admissible evidence.

(c) In addition to any other powers of arrest, any police officer is hereby authorized to arrest without a warrant any person who the officer has probable cause to believe has violated the provisions of this section, regardless of whether the alleged violation was committed in the presence of such officer.

(d) In addition to any penalty for a violation of subsection (a) of this section, the court shall order the person to complete a drug and alcohol evaluation and to complete a program of education or rehabilitation pursuant to § 4177D of this title.

(70 Del. Laws, c. 36 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 450 § 1; 78 Del. Laws, c. 167 § 29.)

## § 4177M Operating a commercial motor vehicle with a prohibited blood alcohol concentration or while impaired by drugs.

(a) No person shall drive, operate, or have actual physical control of a commercial motor vehicle with an alcohol concentration of .04 or more in that person's blood or breath or having used a controlled substance or any drug which impairs driving ability. Any person who violates this section shall be guilty of an unclassified misdemeanor, and shall be subject to the provisions of Chapter 26 of this title. Prosecution under this section does not preclude prosecution under any other section of the Code. "Alcohol concentration of .04 or more" shall mean:

(1) An amount of alcohol in a sample of a person's blood equivalent to .04 or more grams of alcohol per 100 milliliters of blood; or,

(2) An amount of alcohol in a sample of a person's breath equivalent to .04 or more grams per 210 liters of breath.

(b) In addition to any penalty for a violation of subsection (a) of this section, the court shall order the person to complete a drug and alcohol evaluation and to complete a program of education or rehabilitation pursuant to § 4177D of this title.

(70 Del. Laws, c. 134 § 5; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 60 § 15; 78 Del. Laws, c. 167 § 30.)

# Subchapter X

# Stopping, Standing and Parking

## § 4178 Violations of offenses prohibiting stopping, standing or parking.

Any violation of this subchapter or any municipal or county ordinance, code or regulation prohibiting stopping, standing or parking shall be subject to a civil penalty only. Such violation shall not be classified as a criminal offense and shall not qualify as a prior conviction for purposes of § 4218(c)(1)f. of Title 11, whether or not such violation occurred prior to July 10, 2006.

(21 Del. C. 1953 § 4177; 54 Del. Laws, c. 160 § 1; 56 Del. Laws, c. 314; 60 Del. Laws, c. 701 § 50; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 405 § 7.)

## § 4179 Stopping, standing or parking.

(a) Upon any highway outside of a business or residential district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway, except when necessary to avoid conflict with other traffic or where it is necessary for public utility vehicles to temporarily stop along the highway to make alterations in or repairs to utility facilities, so long as proper traffic-control devices are posted or where it is in compliance with the directions of a police officer or traffic-control device.

(b) Whenever any person authorized to issue a summons under this title finds a vehicle standing upon the highway in violation of subsection (a), (e) or (f) of this section, the authorized person may move such vehicle or require the driver or other person in charge of the vehicle to move same to a position off the highway.

(c) Any person authorized to issue a summons under this title is hereby authorized to remove or cause to be removed any unattended vehicle illegally left standing upon any highway, bridge, causeway, or in any tunnel in such a position or under such circumstances as to obstruct the normal movement of traffic.

(d) Subsections (a) and (b) of this section shall not apply to the driver of any vehicle which is disabled while on the roadway in such a manner and to such an extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position.

(e) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, including all state-owned and/or state leased property; in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within 15 feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk;

(7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal;

(8) Between a safety zone or island and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone or island, unless a different length is indicated by traffic-control devices;

(9) Within 50 feet of the nearest rail or railroad crossing, unless a different length is indicated by traffic-control devices;

(10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly designated by traffic-control devices;

(11) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;

(12) Upon the roadway of any highway when it is practical to stop, stand or park off the roadway;

(13) On the roadway side of any vehicle stopped or parked on the shoulder or at the edge or curb of a highway;

(14) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(15) At any place where official traffic-control devices prohibit stopping, standing or parking;

(16) At any place where such parking, standing or stopping obstructs the free passage of other traffic;

(17) Wherever a curb is marked yellow or a yellow line is placed at the edge of a roadway or shoulder;

(18) In the area between roadways of a divided highway, including crossovers;

(19) In any area owned by, leased by or under the control of the State, when such area has been designated by the Director of the Office of Management and Budget as a reserved parking space for members of the General Assembly, their staff, state-owned vehicles, specific state offices or state employees. Such parking spaces will be conspicuously marked as such;

(20) In any areas which in any manner restricts access to or ingress or egress from the areas defined in paragraph (19) of this subsection.

(f) No person shall move a vehicle not lawfully under the person's control into such prohibited area or away from a curb such distance as is unlawful.

(g) The Superintendent of the State Police is hereby authorized to appoint cadets who shall have authority to enforce violations of the section within the unincorporated areas of each county. Cadets appointed pursuant to this section must be at least 18 years of age. The Superintendent may establish such other qualifications as are deemed necessary or desirable.

(h) A summons issued by a cadet appointed by the Superintendent pursuant to this section shall have the same force and effect as a summons issued by the State Police.

(21 Del. C. 1953 § 4178; 54 Del. Laws, c. 160 § 1; 56 Del. Laws, c. 74; 57 Del. Laws, c. 541; 57 Del. Laws, c. 670 § 13A; 58 Del. Laws, c. 462; 60 Del. Laws, c. 701 § 51; 66 Del. Laws, c. 384 § 1; 70 Del. Laws, c. 186 § 1; 75 Del. Laws, c. 88 § 16(4); 75 Del. Laws, c. 405 §§ 8-10; 79 Del. Laws, c. 96.)

## § 4180 Additional parking regulations; penalty.

(a) Except as otherwise provided in this section, every vehicle stopped or parked upon a 2-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or outside edge of the shoulder.

(b) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or outside edge of the shoulder, or its left wheels within 12 inches of the left-hand curb or outside edge of the shoulder.

(c) Local authorities within their respective jurisdictions may, by ordinance, permit angle parking on any highway, except that angle parking shall not be permitted on a federal aid or state highway unless the Department of Transportation has determined that the highway is of sufficient width to permit angle parking without interfering with the free movement of traffic on the roadway.

(d) The Department of Transportation may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, in its opinion, such stopping, standing or parking is dangerous to those using the highways or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such prohibitions or restrictions may be declared to be effective either part or all of the time, and differing limits may be established for different times of the day, for different types of vehicles, for different weather conditions and when other significant factors differ.

(e) No person shall park a vehicle in any area owned by, leased by or under the control of a retail store and immediately adjacent to such retail store, when such area has been designated by the management of the retail store as a loading zone and is conspicuously marked as such.

(f) Whoever violates this section shall be assessed a civil penalty not less than $10 nor than $25.

(21 Del. C. 1953 § 4179; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 §§ 13A, 13D; 60 Del. Laws, c. 701 § 52; 61 Del. Laws, c. 168 §§ 1, 2; 63 Del. Laws, c. 350 § 3; 75 Del. Laws, c. 405 § 11.)

## § 4181 Summons for unattended vehicle; civil penalties.

(a) A summons in appropriate form to be adopted by the Department of Public Safety may be attached to an unattended vehicle found in violation of any of the provisions of this subchapter or of any local code or regulation regulating stopping, standing or parking by any officer authorized by this Code or local ordinance, code, or regulation to issue summonses for such violations.

(b) The Department of Public Safety may adopt a schedule of civil penalties, between a minimum of $11.50 and a maximum of $28.75, for all violations delineated in this subchapter.

(21 Del. C. 1953 § 4179A; 56 Del. Laws, c. 138; 57 Del. Laws, c. 120; 57 Del. Laws, c. 670 §§ 13A, 13E; 63 Del. Laws, c. 350 § 4; 68 Del. Laws, c. 9 § 34; 74 Del. Laws, c. 110 § 138; 75 Del. Laws, c. 405 § 12.)

## § 4181A Establishment of voluntary assessment centers for payment of civil penalties for parking; payment by voluntary assessment; procedures for contesting; presumptions; failure to pay or contest.

(a) Establishment of municipal voluntary assessment centers. —

(1) An incorporated city or town may establish a voluntary assessment center for the payment of civil penalties for violations of their respective municipal ordinances, codes or regulations involving stopping, standing or parking.

(2) An incorporated city or town may, by ordinance, establish the amount of the civil penalty for each stopping, standing or parking offense.

(3) An incorporated city or town which establishes a voluntary assessment center may, by ordinance, provide for the imposition of 1 or more increases in the amount of the civil penalty if the fine is not timely paid.

(4) An incorporated city or town which establishes a voluntary assessment center may, by ordinance, provide for a reduction in the amount of the civil penalty due if such civil penalty is paid during a specified time period which is prior to the summons due date.

(b) Payment by voluntary assessment. — An owner or operator shall pay the amount on the summons to the voluntary assessment center listed on the summons, which center may be either a municipal voluntary assessment center or the Justice of the Peace Court Voluntary Assessment Center. No court costs or other administrative fee shall be assessed if a civil penalty is paid by voluntary assessment. In lieu of payment, an owner or operator may notify the applicable voluntary assessment center, within the time period specified on the summons, that such owner or operator requests a hearing in the Justice of the Peace Court.

(c) Presumptions. —

(1) If any vehicle found to be in violation of this subchapter or any ordinance, code or regulation regulating stopping, standing or parking is unattended at the time the violation is discovered and the identity of the operator is not otherwise apparent, the person in whose name such vehicle is registered as the owner shall be held responsible for such violation, unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner:

a. Prior to the due date furnishes to the voluntary assessment center either:

1. An affidavit stating that the owner was not the operator of the vehicle at the time of the alleged violation and provides the

name and address of the person, or company who leased, rented or otherwise had the care, custody or control of the vehicle; or

2. Attaches a certified copy of a police report showing that the vehicle or license plate or plates thereof had been reported to the police as stolen prior to the time of the alleged violation; or

b. Provides proof in Court that the owner was not the operator of the vehicle at the time of the alleged violation.

(2) A summons may be issued by the prosecuting agency to a person identified by affidavit or evidence in court as the actual operator of the vehicle shown to have violated this subchapter or an ordinance, code or regulation regulating stopping, standing or parking. There shall be a presumption that the person so identified was the driver. The presumption may be rebutted as described in this subsection.

(d) Procedure for contesting. —

(1) A request for a hearing must be made no later than the due date indicated on the summons, which date shall not be sooner than 20 days from the date the summons was issued.

(2) The voluntary assessment center shall notify the Justice of the Peace Court when a hearing is requested. Such notification shall be in accordance with policies and procedures developed by the Justice of the Peace Court.

(e) Failure to pay or contest the violation. — If the owner or operator:

(1) Fails to respond to the summons on or before the due date in any of the manners permitted by this section, or

(2) Requests a hearing and fails to appear,

the Court may, upon motion, enter a default judgment against such owner or operator. However, when the default judgment is sought for a failure to respond to the summons, no default judgment shall be entered until notice by first class mail is sent by the Court to such owner or operator providing the owner or operator with 10 days to pay the civil penalty to the Court or request a hearing to contest the charge. A default judgment may include any applicable increases in the amount of the civil penalty for failure to timely pay or contest. The applicable city, county, or state agency may seek execution on any judgment entered by the Court.

In addition, the applicable city, county or state agency may tow the vehicle if it is located in its jurisdiction and levy on it for the amount of unpaid tickets plus towing charges.

(75 Del. Laws, c. 405 § 13; 70 Del. Laws, c. 186 § 1.)

## Subchapter XI

## Miscellaneous Rules

### § 4182 Unattended motor vehicle.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

(21 Del. C. 1953 § 4180; 54 Del. Laws, c. 160 § 1; 63 Del. Laws, c. 214 § 1.)

### § 4183 Parking areas for vehicles being used by persons with disabilities.

(a) For purposes of this section, the term "vehicle being used by a person with a disability" means a vehicle:

(1) That displays a valid special license plate issued pursuant to § 2134 of this title on the rear of the vehicle, or that displays a valid parking placard issued pursuant to § 2135 of this title on the front windshield rearview mirror of the vehicle or, if there is no mirror, on the dashboard, or that displays a valid plate, placard or other item issued under a similar statute in another state or country; and

(2) In which the person for whom the plate or placard is issued is either the operator or a passenger or, in the case of an organization, in which a person who is entitled to obtain a permanent or temporary placard is a passenger.

(b) With the exception of a vehicle being used by a person with a disability, it is unlawful to park on public or private property any vehicle in any area under the control of the Department of Transportation or a local authority within its respective jurisdiction or under the control of an owner or lessee of private property that is designated as a parking space or zone for persons with disabilities which limit or impair the ability to walk and that is conspicuously marked as such. For purposes of this section, "conspicuously marked" means that a vertical sign has been placed at an approximate height of at least 5 feet but no more than 7 feet when measured from the surface directly below the sign to the top of the sign for each parking space or zone. The sign must substantially follow federal specifications that identify a parking zone or space as one for persons with disabilities which limit or impair the ability to walk. A sign at least 12 inches wide by 18 inches tall that includes the internationally recognized wheelchair symbol of access substantially follows federal specifications. These requirements may not be construed to preclude additional markings, such as the international wheelchair symbol or a striped extension area painted on the space or zone, or a tow-away warning sign.

(c) Upon the discovery on private property of a vehicle, other than a vehicle being used by a person with a disability, in a designated parking space or zone for persons with disabilities, the owner or lessee of the private property may cause the illegally parked vehicle to be removed to a private storage area maintained for the safe storage of vehicles. Any costs of removal and storage must be borne by the owner or operator of the vehicle. Upon the discovery of a vehicle illegally parked in a designated parking space or zone for persons with disabilities that is under the control of the Department of Transportation or local authorities, the State Police, county police or municipal

police having jurisdiction may cause the illegally parked vehicle to be removed to a private storage area maintained for the safe storage of vehicles. Any costs of removal and storage must be borne by the owner or operator of the vehicle.

(d) In addition to unlawful parking on public or private property in a space or zone designated for a vehicle being used by a person with a disability, the following acts are prohibited on both public and private property and may be enforced pursuant to this section:

(1) Creating or using a counterfeit license plate or parking placard, as described in § 2134 or § 2135 of this title;

(2) Altering a license plate or parking placard issued pursuant to § 2134 or § 2135 of this title;

(3) Parking on a striped area within or adjacent to a space or zone designated for a vehicle being used by a person with a disability;

(4) Being the person or organization to whom a license plate or parking placard has been issued pursuant to § 2134 or § 2135 of this title, allowing another to use the plate or placard; or

(5) Parking a vehicle with a license plate or placard issued pursuant to § 2134 or § 2135 of this title in a space or zone defined in subsection (b) of this section unless a person on whose behalf a special license plate or placard has been issued is being transported.

(e) A uniform parking summons may be attached to an unattended vehicle found in violation of this section by a person authorized to issue a summons for a violation of this section. It is prima facie evidence that the person or organization in whose name the unattended vehicle is registered is responsible for the violation. The owner or operator of the unattended vehicle may mail or deliver the summons and the designated fine and costs directly to the court identified on the summons instead of appearing before the court for arraignment on the charge, provided that the owner or operator identifies himself, herself or itself and that the summons and fine and costs are received by the court at least 2 days before the arraignment date designated on the summons.

(f) A person or organization who violates any provision of this section shall receive a mandatory fine of $100 for a first offense, and for a subsequent like offense, a mandatory fine of $200 or a term of imprisonment of not less than 10 nor more than 30 days, or both. In addition, a person or organization who holds a valid special license plate or parking placard issued pursuant to § 2134 or § 2135 of this title and who violates paragraph (d)(1), (2), or (4) of this section may receive an additional penalty of up to a 6-month suspension or the permanent revocation of the plate or placard. If a plate is suspended or revoked pursuant to this subsection, the person may apply for and be issued a regular license plate.

(g) The Superintendent of the State Police is authorized to appoint State Police Academy cadets to enforce this section within the unincorporated areas of each county. Cadets appointed pursuant to this subsection must be at least 18 years of age. The Superintendent may establish other qualifications considered necessary or desirable.

(h) A summons issued by a cadet appointed by the Superintendent pursuant to subsection (f) of this section has the same force and effect as a summons issued by the State Police.

(i) Fines collected from summonses issued by the State Police or by cadets appointed pursuant to subsection (f) of this section must be deposited into the General Fund.

(j) The authority of the State Police or a cadet appointed by the Superintendent to enforce this section is not limited by any jurisdictional agreement between the State Police and any local law-enforcement agency.

(21 Del. C. 1953 § 4180A; 55 Del. Laws, c. 398 § 2; 62 Del. Laws, c. 102 §§ 1-3; 63 Del. Laws, c. 214 § 1; 63 Del. Laws, c. 441 § 3; 64 Del. Laws, c. 203 § 1; 66 Del. Laws, c. 329 § 1; 67 Del. Laws, c. 162 § 1; 67 Del. Laws, c. 163 § 1; 68 Del. Laws, c. 287 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 287 § 1; 73 Del. Laws, c. 356 § 1; 73 Del. Laws, c. 397 § 3; 78 Del. Laws, c. 223 §§ 1, 2.)

## § 4184 Limitations on backing.

The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(21 Del. C. 1953 § 4181; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 53.)

## § 4185 Riding on motorcycles.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than 1 person in which event a passenger may ride upon the permanent and regular seat if designed for 2 persons or upon another seat firmly attached to the rear or side of the operator and said motorcycle shall be equipped with passenger footrests.

(b) Every person operating or riding on a motorcycle shall have in that person's possession a safety helmet approved by the Secretary of Safety and Homeland Security (hereinafter "Secretary") through the Office of Highway Safety and shall wear eye protection approved by the Secretary; provided, however, that every person up to 19 years of age operating or riding on a motorcycle shall wear a safety helmet and eye protection approved by the Secretary.

(c) The operator of a motorcycle shall keep at least 1 hand on a handgrip of the handlebars at all times when moving.

(d) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with 1 leg on each side of the motorcycle.

(e) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents the person from keeping both hands on the handlebars.

(f) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(21 Del. C. 1953 § 4182; 56 Del. Laws, c. 333; 60 Del. Laws, c. 701 § 54; 61 Del. Laws, c. 314 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 90; 75 Del. Laws, c. 75 § 1.)

## § 4186 Obstruction to driver's view of driving mechanism.

(a) No person shall drive a vehicle when it is so loaded or when there are in the front seat such a number of persons, exceeding 3, as to obstruct the view of the driver to the front or sides of the vehicles or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with the driver's control over the driving mechanism of the vehicle.

(c) Every person riding in a passenger car shall occupy a seating position designed and intended for that person's use.

(21 Del. C. 1953 § 4183; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 55; 70 Del. Laws, c. 186 § 1.)

## § 4187 Coasting prohibited.

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears or transmission of such vehicle in neutral.

(b) The driver of any motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.

(21 Del. C. 1953 § 4184; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 56.)

## § 4188 Following fire apparatus; driving vehicle over fire hose.

(a) No driver of any vehicle, other than on official business, shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm. No person shall be deemed to have violated this subsection with regard to parking if the act of parking was done prior to the giving of alarm of such fire.

(b) No person shall drive any vehicle over any line of hose which has been laid for the purpose of extinguishing a fire without the consent of the fire department official in command.

(c) Whoever violates this section shall be fined not less than $28.75 nor more than $115.

(21 Del. C. 1953 § 4185; 54 Del. Laws, c. 160 § 1; 56 Del. Laws, c. 75; 60 Del. Laws, c. 701 § 57; 68 Del. Laws, c. 9 § 35.)

## § 4189 Putting glass or other items on a highway prohibited.

(a) No person shall throw or deposit upon any highway or adjacent property any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway or adjacent property.

(b) Any person who drops, or permits to be dropped or thrown, upon any highway or adjacent property any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) No person shall throw or deposit any goods, merchandise, bundles or litter of any kind upon a highway.

(d) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(e) No person shall leave, drop, throw away or otherwise dispose of trash of any description in quantity to exceed 5 pounds or 1 cubic foot upon or alongside any highway.

(f) If any person witnesses the violation of subsection (a), (b) or (c) of this section by a person in a vehicle, and the identity of the offender is not otherwise apparent, there shall be a rebuttable presumption that the registered owner if the driver's identity cannot be ascertained or the driver of the vehicle is responsible for such violation.

(g) Whoever violates this section shall be guilty of an unclassified misdemeanor, and shall be fined not less than $115 and up to 8 hours of community service for a first offense and not less than $125 nor more than $287.50 and up to 25 hours of community service for a second offense within 2 years. A violation of this section, whether a first, second, or subsequent offense, that takes place on or along a Delaware byway, as defined in § 101(a)(9) of Title 17, is subject to a mandatory penalty of $500, which must be imposed in addition to the fine.

(h) The rebuttable presumption set forth in subsection (f) of this section shall not apply to operators of buses carrying 9 or more persons. Whoever violates subsection (e) of this section shall be guilty of an unclassified misdemeanor, and shall be fined not less than $460 nor more than $690. For each subsequent offense occurring within 3 years of a former offense, the person shall be fined not less than $575 nor more than $1,150. The minimum fines for a violation of this section shall not be subject to suspension. A violation of this section, whether a first, second, or subsequent offense, that takes place on or along a Delaware byway, as defined in § 101(a)(9) of Title 17, is subject to a mandatory penalty of $500, which must be imposed in addition to the fine.

(21 Del. C. 1953 § 4186; 54 Del. Laws, c. 160 § 1; 59 Del. Laws, c. 563 § 1; 62 Del. Laws, c. 375 §§ 1-4, 6; 68 Del. Laws, c. 9 §§ 36, 37; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 325 § 2; 77 Del. Laws, c. 60 § 16; 77 Del. Laws, c. 350 § 6.)

## § 4190 Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(21 Del. C. 1953 § 4187; 54 Del. Laws, c. 160 § 1.)

## § 4191 Trailers and towed vehicles.

(a) No vehicle shall be driven upon any highway drawing or having attached thereto more than 1 other vehicle, provided that a vehicle with semitrailer may draw in addition thereto 1 other vehicle, and provided further that driveway operations in transit may transport by means of saddlemount and fullmount mechanisms, utilizing the motive power of 1 of the vehicles in combination. This subsection shall not apply to farm tractors.

(b) The draw bar or other connection between any 2 vehicles 1 of which is towing or drawing the other on a highway shall not exceed 15 feet in length from 1 vehicle to the other. Whenever such connection consists of a chain, rope or cable, there shall be displayed upon such connection a red flag or other signal or cloth not less than 12 inches both in length and width.

(c) It shall be unlawful to ride in a towed vehicle except when necessary to steer the towed vehicle.

(d) This section shall not apply to:

(1) Vehicles in a parade when the vehicles are drawn or towed at a speed of less than 20 miles per hour;

(2) Trailers which have been designed or modified to carry passengers for sightseeing or public transportation purposes provided that such activity complies with the requirements of the Transportation Authority as provided in Chapter 18 of Title 2.

(21 Del. C. 1953 § 4189; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 §§ 58, 59; 61 Del. Laws, c. 318 § 1; 62 Del. Laws, c. 53 § 1.)

## § 4191A Trespass by motor vehicle or OHV.

(a) No person shall knowingly operate a motor vehicle or OHV on private real property or upon a private road or driveway without consent of the owner or lessee of the real property. There shall be a rebuttable presumption that a person has knowingly violated this subsection if the owner or lessee has placed, at or near the points of entry from public or private vehicular access, a gate, fence or similar obstruction or a readily visible sign that would reasonably convey that the unauthorized operation of motor vehicles on the private road or driveway is prohibited.

(b) Penalties:

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

a. A fine of not more than $100 for a first conviction.

b. A fine of not more than $1,000 plus suspension of operating privileges for a period of 6 months for a second or subsequent conviction of the offense. If a person is under 16 years of age at the time of the second or subsequent conviction of this offense, the period of suspension shall commence upon the person's sixteenth birthday.

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

(68 Del. Laws, c. 96 § 1.)

# Subchapter XII

# Operation of Bicycles and Other Human-Powered Vehicles; Operation of Electric Personal Assistive Mobility Devices

## § 4192 Responsibility of parent or guardian.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this subchapter.

(21 Del. C. 1953 § 4190; 54 Del. Laws, c. 160 § 1; 66 Del. Laws, c. 167 § 2.)

## § 4193 Applicability of traffic laws.

Every person propelling a vehicle by human power or riding a bicycle shall have all of the rights and all of the duties applicable to the driver of any other vehicle by this title, except as to special regulations in this subchapter and except as to those provisions of this title which by their nature can have no application.

(21 Del. C. 1953 § 4191; 54 Del. Laws, c. 160 § 1; 66 Del. Laws, c. 167 § 2.)

## § 4194 Passengers and trailers.

(a) No bicycle shall be used to carry more persons at 1 time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to the person in a backpack or sling.

(b) A trailer or semitrailer designed for attachment to a bicycle may be used when securely attached thereto.

(21 Del. C. 1953 § 4192; 54 Del. Laws, c. 160 § 1; 60 Del. Laws, c. 701 § 60; 66 Del. Laws, c. 167 § 2; 70 Del. Laws, c. 186 § 1.)

## § 4195 Clinging to vehicles.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or personally be attached to any vehicle upon a highway.

(21 Del. C. 1953 § 4193; 53 Del. Laws, c. 160 § 1; 66 Del. Laws, c. 167 § 2; 70 Del. Laws, c. 186 § 1.)

## § 4196 Position on roadway.

(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand edge of the roadway except under any of the following circumstances:

(1) When overtaking and passing another bicycle or vehicle proceeding in the same direction;

(2) When preparing for a left turn at an intersection or into a private road or driveway;

(3) When proceeding straight in a right-turn-only lane; or

(4) When reasonably necessary to avoid conditions including, but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or substandard width lanes that make it unsafe to continue along the right-hand edge of roadway. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

(b) Any person operating a bicycle upon a one-way highway with 2 or more marked traffic lanes and a posted speed limit of less than 30 miles per hour may ride as near the left-hand edge of such roadway as practicable.

(c) Persons riding bicycles upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding 2 abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(d) Any person operating a bicycle may ride upon a paved shoulder with due regard for any traffic control devices intended to regulate or guide traffic or pedestrians.

(21 Del. C. 1953 § 4194; 54 Del. Laws, c. 160 § 1; 66 Del. Laws, c. 167 § 2; 78 Del. Laws, c. 206 §§ 1, 2.)

## § 4197 Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the use of both hands in the control and operation of the bicycle. A person operating a bicycle shall keep at least 1 hand on the handlebars at all times.

(21 Del. C. 1953 § 4195; 54 Del. Laws, c. 54 § 1; 66 Del. Laws, c. 167 § 2.)

## § 4198 Left turns.

(a) A person riding a bicycle intending to turn left shall follow a course described in § 4152 of this title or in subsection (b) of this section.

(b) A person riding a bicycle intending to turn left shall approach the turn as close as practicable to the right edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges the bicyclist shall stop, as much as practicable out of the way of traffic. After stopping, the bicyclist shall yield to any traffic proceeding in either direction along the roadway the bicyclist has been using. After yielding, and complying with any official traffic-control device or police officer regulating traffic on the highway along which the bicyclist intends to proceed, the bicyclist may proceed in the new direction.

(c) Notwithstanding subsections (a) and (b) of this section, the Department or local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a specific course be traveled by turning bicycles, and when such devices are so placed, no person shall turn a bicycle other than as directed and required by such devices.

(66 Del. Laws, c. 167 § 2; 70 Del. Laws, c. 186 § 1.)

## § 4198A Turn and stop signals.

(a) A person operating a bicycle shall give hand and arm signals as follows:

(1) Left turn. — Left hand and arm extended horizontally and to the left side of the bicycle.

(2) Right turn. — Right hand and arm extended horizontally and to the right side of the bicycle or the left hand and arm extended upward.

(3) Stop or decrease speed. — Left hand and arm extended downward from the left side of the bicycle.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the bicycle before turning, and shall be given while the bicycle is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle.

(66 Del. Laws, c. 167 § 2; 70 Del. Laws, c. 384 § 2.)

## § 4198B Bicycles on sidewalks and crosswalks.

(a) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(b) A person shall not ride a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, where such use of bicycles is prohibited by official traffic-control devices.

(c) A person propelling a vehicle by human power upon and along a sidewalk, or pushing a bicycle across a roadway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

(66 Del. Laws, c. 167 § 2.)

## § 4198C Bicycle parking.

(a) A person may park a bicycle on a sidewalk unless prohibited or restricted by an official traffic-control device.

(b) A bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

(c) A bicycle may be parked on the roadway at any angle to the curb or edge of the roadway at any location where parking is allowed.

(d) A bicycle may be parked on the roadway abreast of another bicycle or bicycles near the side of the roadway at any location where parking is allowed.

(e) A person shall not park a bicycle on a roadway in such a manner as to obstruct the movement of a legally parked motor vehicle.

(f) In all other respects, bicycles parked anywhere on a highway shall conform with the provisions of this title.

(66 Del. Laws, c. 167 § 2.)

## § 4198D Bicycle racing.

(a) Bicycle racing on the highways is prohibited by § 4172 of this title except as authorized in this section.

(b) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by the Department or local authorities in their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(c) By agreement with the approving authority, participants in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users.

(66 Del. Laws, c. 167 § 2.)

## § 4198E Inspecting bicycles.

A uniformed police officer may at any time, upon reasonable cause to believe that a bicycle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the person riding the bicycle to stop and submit the bicycle to an inspection and such test with reference thereto as may be appropriate.

(66 Del. Laws, c. 167 § 2.)

## § 4198F Lamps and other equipment on bicycles.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front.

(b) Every bicycle shall be equipped with a red reflector of a type approved by the Department which shall be visible for 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(c) Every bicycle when in use at nighttime shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least 500 feet.

(d) A bicycle or its rider may be equipped with lights or reflectors in addition to those required by subsections (a)-(c) of this section.

(e) Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(21 Del. C. 1953 § 4196; 54 Del. Laws, c. 160 § 1; 66 Del. Laws, c. 167 § 2.)

## § 4198G Bicycle identifying number.

A person engaged in the business of selling bicycles at retail shall not sell any bicycle unless the bicycle has an identifying number permanently stamped or cast on its frame.

(66 Del. Laws, c. 167 § 2.)

## § 4198H Use of earplugs and headsets restricted.

(a) A person shall not drive a bicycle with earplugs in both ears or while wearing a headset covering both ears.

(b) A prosthetic device which aids the hard-of-hearing is not an earplug or a headset under this section.

(66 Del. Laws, c. 167 § 2.)

## § 4198I Human-powered vehicles defined.

"Human-powered vehicles" shall mean that certain class of vehicles which are exclusively human-powered by means of foot pedals and which the driver normally rides astride. Adult cycles are included but all children's cycles are excluded as are all toys and all vehicles of whatever nature that require the driver to place a foot or other object on the ground to cause motion.

(66 Del. Laws, c. 167 § 2.)

## § 4198J Bicycling on highways under influence of drugs or alcohol.

(a) No person shall ride a bicycle on a highway of this State while under the influence of intoxicating liquor and/or narcotic drugs to a degree which renders such person a hazard.

(b) Whoever is convicted of a violation of subsection (a) of this section shall, for the first offense be fined not less than $150 nor more than $1,150 and for subsequent offenses, be fined not less than $400 nor more than $1,500 or be imprisoned not less than 10 days nor more

than 30 days, or both. A subsequent offense must have been committed within 2 years of the prior offense.

(c) No violation of this section shall be entered on a driver's motor vehicle record.

(70 Del. Laws, c. 265 § 3; 74 Del. Laws, c. 282 § 2.)

## § 4198K Helmet requirements.

(a) A person under 18 years of age shall not operate or ride as a passenger upon any bicycle unless that person is wearing an approved, properly fitted and fastened bicycle helmet. This requirement shall apply to a person who rides upon a bicycle while in a restraining seat which is attached to the bicycle or in a trailer towed by the bicycle. For purposes of this section, an "approved helmet" means a bicycle helmet which conforms to the following standards:

(1) A bicycle helmet that was manufactured prior to March 11, 1999, shall meet or exceed the minimum bicycle helmet safety standards set by the American National Standards Institute (ANSI), the American Society for Testing and Materials (ASTM), or the Snell Memorial Foundation;

(2) A bicycle helmet that was manufactured on or after March 11, 1999, shall meet or exceed the minimum bicycle helmet safety standards set by the Consumer Products Safety Commission.

(b) Any parent or guardian who fails to cause the parent's or guardian's child to wear a bicycle helmet, as provided herein, shall be fined for the first offense $25, and for each subsequent offense, $50.

(c) The Court may dismiss all charges pursuant to this section upon presentation of evidence that a violator hereof has purchased or obtained a bicycle helmet which meets or exceeds the standards set forth herein subsequent to the violation.

(d) The requirements of this section shall apply at all times while a bicycle is being operated on any property open to the public or used by the public for pedestrian and vehicular purposes.

(e) Failure to wear a bicycle helmet as herein described shall not be considered evidence of either comparative or contributory negligence in any civil suit arising out of any accident in which a person under 18 years of age is injured, nor shall failure to wear a bicycle helmet be admissible as evidence in the trial of any civil action.

(f) It is an affirmative defense to a violation of the helmet requirements of this section that the violator is a member of a recognized church or religious denomination and whose religious convictions, in accordance with the tenets and practices of the violator's church or religious denomination, are against the wearing of a helmet.

(70 Del. Laws, c. 38 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 282 § 2; 76 Del. Laws, c. 289 §§ 1-5.)

## § 4198L Exemption for bicycle-mounted police officers.

Bicycle-mounted police officers, while responding to an emergency or during the pursuit of an actual or suspected violator of the law, are exempt from the obligations under this subchapter.

(70 Del. Laws, c. 384 § 3; 74 Del. Laws, c. 282 § 2.)

## § 4198M Mopeds and tripeds.

(a) Mopeds and tripeds shall not be operated upon interstate and limited access highways, even to cross such highways, nor shall they be operated on the right-of-way of an operating railroad, except to cross such railroad, nor shall they be operated on any path set aside for the exclusive use of bicycles unless the helper motor has been turned off.

(b) No person shall drive a moped or triped without having been licensed as an operator of a motor vehicle under this title. The licensee shall have such license in the licensee's immediate possession at all times when operating a moped or triped. The licensee does not need a motorcycle endorsement to operate a moped or triped.

(c) Regulations applicable to bicycles shall apply whenever a moped or triped is operated upon any public road or upon any path set aside for the exclusive use of bicycles.

(d) Mopeds or tripeds shall be registered under regulations which shall be adopted by the Division of Motor Vehicles. The registration and reregistration fee for mopeds or tripeds shall be $5.00 for a 3-year registration period. Upon registration of a moped or triped, the Division of Motor Vehicles shall issue a decal or a distinctive number plate to be affixed to the moped or triped as indication of registration.

(e) Title and vehicle document fees must be paid. Liens can be recorded.

(f) A moped license plate will be issued and has to be displayed on the rear of the moped so it is clearly visible. All moped registrations will expire on December 31. A registration card will be issued in the same manner as other vehicles.

(g) Safety inspections. — Mopeds shall be exempt from Delaware's safety inspection. Division of Motor Vehicles personnel will verify the vehicle identification number on those vehicles titled in another jurisdiction which are being titled in Delaware for the first time. A fee of $15 shall be charged for Division of Motor Vehicles technicians to perform an offsite vehicle identification number verification.

(h) No motor vehicle insurance is required for the operation of a moped or triped.

(i) No helmet is required by the operator of a moped or triped unless under 16 years of age.

(j) If the moped or triped owner is not a Delaware resident, Delaware will honor the laws of his or her home state regarding the registration of such vehicle. However, the operator of a moped or triped must hold a valid driver license from his or her state of residence.

(70 Del. Laws, c. 208 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 282 § 2; 79 Del. Laws, c. 397 § 3.)

## § 4198N Operation of motorized skateboards and scooters.

(a) Upon public highways, streets, sidewalks or rights-of-way; penalties for violation. — Motorized skateboards or scooters shall not be operated upon a public highway or street or sidewalk or right-of-way thereof located within this State except under the following conditions:

(1) A motorized skateboard or scooter may be pushed across or along such public way provided such motorized skateboard or scooter is in neutral or that the power train is otherwise disengaged, and further provided that such use shall be in conformance with this chapter.

(2) A motorized skateboard or scooter may be operated on a street or highway located within this State for a special event of limited duration, conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction.

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

a. For the first offense, a fine of not less than $25 nor more than $115.

b. For a second or subsequent offense, committed within 24 months after commission of the first offense, the operator shall be fined not less than $57.50 nor more than $230 and the motorized skateboard or scooter may be ordered to be forfeited by the court.

(b) Upon other property; penalty for violation. — A person shall not operate a motorized skateboard or scooter upon any property in either public or private ownership without the express permission of the person in control of the property or knowingly in violation of any restrictions imposed on such use by the person in control of the property. A person who violates this subsection shall be subject to the following penalties:

(1) For the first offense, a fine of not less than $25 nor more than $115.

(2) For a second or subsequent offense, committed within 24 months after commission of the first offense, the operator shall be fined 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 value of any damage to real or personal property that results from a violation of this subsection.

(c) Careless operation or excessive rate of speed. — A person shall not operate a motorized skateboard or scooter in a careless or imprudent manner or at a rate of speed greater than is reasonable and prudent under the conditions or without having regard to actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance.

(d) While under the influence or with a prohibited alcohol content. — A person shall not operate a motorized skateboard or scooter while under the influence of alcohol, any drug, or with a prohibited alcohol content as defined in § 4177 of this title.

(1) When such operation is upon private property with the express permission of the person in control of the property or such operation is not upon public property, a public highway or street or sidewalk or right-of-way thereof, the penalty provisions of this section shall apply.

(2) The provisions of this subsection, subsections (j) or (l) of this section or any other statute to the contrary notwithstanding, all provisions of § 4177 of this title and provisions of this Code related thereto shall be applicable to the operation of a motorized skateboard or scooter while under the influence of alcohol, any drug, or with a prohibited alcohol content as defined in § 4177 of this title when such operation is upon private property without the express permission of the person in control of the property or such operation is upon public property, a public highway or street or sidewalk or right-of-way thereof located within this State.

(e) In a manner causing damage or disturbance. —

(1) A person shall not operate a motorized skateboard or scooter in a manner to cause damage to property of another person or in a manner to endanger, disturb or annoy another person. Disturbance or annoyance of other persons shall be presumed if the operator has received either verbally or in written form notice of such annoyance or disturbance from the complaining party. However, nothing in this subsection shall be construed as prohibiting the operation of motorized skateboards or scooters at a track or park designed for the lawful operation of said devices.

(2) The operator of the motorized skateboard or scooter shall be held liable for any damage to property of another person. However, if the operator is a minor, the parents or legal guardian of the operator shall be held personally liable for any and all damage and/or injuries, including civil or criminal liability, caused by the minor in the operation of the motorized skateboard or scooter.

(3) The owner of such private property may recover from the person responsible nominal damages of not less than the amount of damage or injury.

(f) Unlawful for operators of motorized skateboard or scooters to disobey command to stop. — It shall be unlawful for any operator of a motorized skateboard or scooter to wilfully disobey a signal to bring such motorized skateboard or scooter to a stop when such signal is given by hand, voice, emergency lights, siren or other visual or audible signal by a uniformed law-enforcement, police, peace or environmental protection officer acting in the lawful performance of duty.

(g) By minors, incompetent persons or persons under mental or physical disabilities. —

(1) A person less than 12 years of age may operate a motorized skateboard or scooter only if:

a. The person is under the direct supervision of a person who is at least 18 years of age; or

b. The person is on land owned by or under the control of the person's parent or legal guardian.

(2) Persons 12 years of age and older may operate a motorized skateboard or scooter without adult supervision provided such use is in compliance with all other provisions of this chapter.

(3) A parent or legal guardian shall not permit a child under the age of 12 to operate a motorized skateboard or scooter except under

the direct supervision of an adult.

(4) The owner of a motorized skateboard or scooter shall not permit:

a. The device to be operated by a person under the age of 12 except under direct adult supervision.

b. The device to be operated by a person who is incompetent to operate such vehicle because of mental or physical disability or because of being under the influence of alcohol, any drug, or with a prohibited alcohol content as defined in § 4177 of this title.

(h) Helmet requirements. —

(1) A person under 18 years of age shall not operate or ride as a passenger upon any motorized skateboard or scooter unless that person is wearing a properly fitted and fastened bicycle helmet which meets or exceeds the standards set forth in § 4198K of this title.

(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 fined for the first offense $25, and for each subsequent offense, $50.

(3) The court may dismiss all charges pursuant to this subsection upon presentation of evidence that a violator hereof has purchased or obtained a helmet that meets or exceeds the standards set forth in this subsection subsequent to the violation.

(4) The requirements of this subsection shall apply at all times while a motorized skateboard or scooter is being operated on any property open to the public or used by the public for pedestrian and vehicular purposes.

(5) Failure to wear a helmet as herein described shall not be considered evidence of either comparative or contributory negligence in any civil suit arising out of any accident in which a person under 18 years of age is injured, nor shall failure to wear a helmet be admissible as evidence in the trial of any civil action.

(i) Any person or business selling a new, unused motorized scooter, as defined in § 101(35) of this title, must obtain a signed, witnessed statement from the purchaser stating that the purchaser is aware that motorized scooters cannot be operated on Delaware public highways or sidewalks, as set forth in this section. The seller must retain the document for a period of not less than 3 years from the date of sale.

(j) Enforcement of section. — Any law-enforcement, peace, police or environmental protection officer, acting in the lawful performance of duty, shall be empowered to enforce this section. Whenever any motorized skateboard or scooter is used in violation of this section, it may forthwith be seized and taken into custody by the peace officer or officers having knowledge of the facts of such use. Any costs associated with any such seizure shall be paid by the operator or owner of such motorized skateboard or scooter unless the operator or owner is found not guilty of the offense charged.

(k) Penalties when not otherwise specified in this section. — Any person convicted of violation of any provision of this section shall be fined not less than $25 nor more than $300. The penalties set forth in this subsection shall apply unless a specific penalty for an offense specified in a provision of this section is otherwise provided in this section.

(l) Jurisdiction. — The Courts of the Justices of the Peace shall have original jurisdiction over violations of this section except that the Family Court shall have jurisdiction over violations of this section when such violation is committed by any person under the age of 18 years of age.

(m) Conflicts with other statutes. — Should any provision of this section conflict with other statutes, the provisions or requirements of this section shall apply. The provisions of this subsection or any other provision of this section notwithstanding, nothing in this subsection or any other provision of this section shall be deemed to preclude prosecution under any other provision of this Code.

(n) Rules and regulations. — The Secretary of Safety and Homeland Security and/or the Secretary of Transportation may adopt and enforce such rules and regulations concerning motorized skateboards or scooters and designate such agencies as may be necessary to carry out this section, provided such rules and regulations are not contrary to this section.

(o) Notwithstanding the provisions of this section, any municipality with a population in excess of 50,000 may implement ordinances, regulating the use of motorized skateboard or scooters, inconsistent with or in addition to the provisions of this section.

(74 Del. Laws, c. 282 § 3; 76 Del. Laws, c. 289 §§ 6, 7; 80 Del. Laws, c. 136 § 1; 80 Del. Laws, c. 168 § 1.)

## § 4198O Operation of electric personal assistive mobility devices (EPAMD)

(a) Nothing in this title shall be construed to limit the operation of an EPAMD on sidewalks and bike ways of the State except the following:

(1) A person operating an EPAMD shall not exceed a speed of 8 miles per hour on sidewalks and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing any pedestrian.

(2) An EPAMD may be operated on a public highway only:

a. While making a direct crossing of a highway in a marked or unmarked crosswalk;

b. Where no sidewalk is available; or

c. When so directed by a traffic control device or by a peace officer.

(3) Any person operating an EPAMD upon a highway shall ride as close as practicable to the right-hand edge of the highway;

(4) An EPAMD may not be operated at any time on a highway with a speed limit of more than 30 miles per hour except to make a direct crossing of the highway in a marked crosswalk;

(5) A person under 16 years of age shall not operate or ride upon an EPAMD unless that person is wearing a properly fitted and fastened bicycle helmet which meets or exceeds the standards set forth in § 4198K of this title;

(6) Any person operating an EPAMD shall obey all traffic control devices and shall exercise due care in the operation of the EPAMD;

and

(7) No person shall ride an EPAMD on a highway of this State while under the influence of intoxicating liquor and/or narcotic drugs to a degree which renders such person a hazard.

(b) An EPAMD shall not require a license plate or be registered by the Division of Motor Vehicles.

(c) An EPAMD shall be equipped with front, rear and side reflectors, a system that when employed will enable the operator to bring the device to a controlled stop, and if the EPAMD is operated between 1/2 hour after sunset and 1/2 hour before sunrise, a lamp emitting a white light which, while the EPAMD is in motion, sufficiently illuminates the area in front of the operator; provided that these provisions shall be satisfied if the operator of the EPAMD wears a headlight and reflectors on the operator's person.

(d) No proof of financial responsibility is required for the operation of an EPAMD.

(e)(1) Any person convicted of a violation of paragraphs (a)(1)-(a)(6) or subsection (c) of this section shall receive a warning for the first offense, be fined $10 for the second or subsequent offense, and shall have the EPAMD impounded for up to 30 days for the third or subsequent offense.

(2) Any person convicted of a violation of paragraph (a)(7) of this section shall for the first offense be fined not less than $150 nor more than $1,150 and for subsequent offenses be fined not less than $400 nor more than $1,500 or be imprisoned not less than 10 days nor more than 30 days, or both.

(73 Del. Laws, c. 346 § 7; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 282 § 3.)

## Subchapter XIII

## Safety Zones; Passengers in Vehicles

### § 4199 Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(21 Del. C. 1953 § 4197; 54 Del. Laws, c. 160 § 1.)

### § 4199A Riding without owner's consent; protrusion beyond limits of vehicle.

No person shall ride upon any vehicle without the consent of the driver and when any person is riding on any vehicle with the driver's consent, no part of the person's body must protrude beyond the limits of the vehicle.

(21 Del. C. 1953 § 4198; 54 Del. Laws, c. 160 § 1; 70 Del. Laws, c. 186 § 1.)

### § 4199B Riding in house trailers.

It shall be unlawful to ride in a house trailer being towed by another vehicle.

(21 Del. C. 1953 § 4199; 54 Del. Laws, c. 160 § 1.)

### § 4199C Child restraint in motor vehicles.

Transferred to § 4803 of this title.

# Part III
# Operation and Equipment
# Chapter 42
# REPORTS OF ACCIDENTS; PENALTIES; INTERPRETATION OF LAWS

## § 4201 Duty of driver involved in collisions resulting in property damage or injury.

(a) The driver of any vehicle involved in a collision resulting in apparent damage to property shall immediately stop such vehicle at the scene of the collision. Said stop should be made as close to the scene of the collision as possible without obstructing traffic more than necessary. The driver shall immediately undertake reasonable efforts to ascertain whether any person involved in the collision was injured or killed. If such collision resulted in injury or death, the driver shall comply with § 4203 of this title. If, after reasonably ascertaining that there are no injuries or deaths, and if the damaged vehicle is obstructing traffic, the driver of the vehicle must make every reasonable effort to move the vehicle or have it moved so as not to obstruct the regular flow of traffic more than necessary. If the damage resulting from such collision is to the property of the driver only, with no damage to the person, property of another, or the environment, the driver need not stay at the scene of the collision but shall immediately make a report of the damage resulting as required by § 4203 of this title.

(b) The driver shall give the driver's name, address and the registration number of a vehicle and exhibit a driver's license or other documentation of driving privileges to the owner of the property or the driver or occupants of any vehicle with which the driver's vehicle collides.

(c) Whoever violates subsection (a) of this section shall be fined no less than $230 nor more than $1,150 or imprisoned not less than 60 days nor more than 6 months.

(d) The Secretary shall revoke the driver's license and/or driving privilege of every person convicted under this section. Such revocation shall be for a period of 6 months.

(21 Del. C. 1953 § 4201; 54 Del. Laws, c. 160 § 1; 65 Del. Laws, c. 77 § 6; 66 Del. Laws, c. 238 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 247 §§ 2, 3; 76 Del. Laws, c. 401 §§ 1-4.)

## § 4202 Duty of driver involved in collision resulting in injury or death to any person; penalty.

(a) The driver of any vehicle involved in an collision resulting in injury or death to any person shall immediately stop such vehicle at the scene of such collision. Said stop should be made as close to the scene of the collision as possible without obstructing traffic more than necessary. The driver shall give the driver's name, address and the registration number of the driver's vehicle and exhibit a driver's license or other documentation of driving privileges to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such collision reasonable assistance, including the carrying of such person to a hospital or physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person, or by contacting appropriate law-enforcement or emergency personnel and awaiting their arrival.

(b) Whoever violates subsection (a) of this section when that person has been involved in a collision resulting in injury to any person shall be guilty of an unclassified misdemeanor, be fined not less than $1,000 nor more than $3,000 or imprisoned not less than 1 year nor more than 2 years.

(c) Whoever violates subsection (a) of this section when that person has been involved in a collision resulting in death to any person shall be guilty of a class E felony. The provisions of § 4206(a) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the sentence for such offense shall include a period of incarceration of not less than 1 year and the first 6 months of any sentence imposed shall not be suspended.

(d) The Secretary shall revoke the driver's license and/or driver's privilege of every person convicted under this section. Such revocation shall be for a period of 1 year if the person is convicted and sentenced pursuant to subsection (b) of this section. Such revocation shall be for a period of 2 years if the person is convicted and sentenced pursuant to subsection (c) of this section.

(e) Except as provided in § 927 of Title 10, notwithstanding any other law, rule or regulation to the contrary, the Court of Common Pleas shall have original jurisdiction to hear, try and finally determine any misdemeanor violation of this section, and any other violation of any offense set forth in this title which was allegedly committed during the same incident. The jurisdiction of the justices of the peace over such matters is hereby terminated.

(21 Del. C. 1953 § 4202; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 670 § 14A; 65 Del. Laws, c. 77 § 7; 68 Del. Laws, c. 9 § 39; 69 Del. Laws, c. 93 § 1; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 247 § 4; 73 Del. Laws, c. 163 §§ 1-3; 76 Del. Laws, c. 401 §§ 5-9.)

## § 4203 Duty to report collisions; evidence.

(a) After complying with the requirements of §§ 4201 and 4202 of this title, the driver of any vehicle involved in the following described vehicular collisions shall immediately report such collision to the police agency which has primary jurisdictional responsibility for the location in which the collision occurred:

(1) When the collision results in injury or death to any person;

(2) When the collision occurs on a public highway and results in property damage to an apparent extent of $500 or more; or

(3) When it appears that any collision involving a driver whose physical ability is impaired as a result of the use of alcohol or drugs or any combination thereof.

(b) When a collision is not required to be reported under subsection (a) of this section, the driver may report such collision to the appropriate police agency as described in subsection (a) of this section, after complying with § 4201(b) of this title.

(c) Police agencies may investigate any collision which occurs within that agency's jurisdiction.

(d) Police agencies shall investigate and complete the State of Delaware Uniform Traffic Collision Report supplied by the Delaware Department of Safety and Homeland Security on all reported collisions involving an impaired driver, apparent property damage to the extent of $1,000 or more or personal injury or death to a person, when such collisions occur within that agency's jurisdiction.

(e) The Department of Safety and Homeland Security may require drivers involved in collisions, or police departments, to file supplemental reports of collisions upon forms furnished by it whenever the original report is insufficient in the opinion of the Department of Safety and Homeland Security. Such reports shall be without prejudice, shall be for the information of the Department of Safety and Homeland Security and shall not be open to public inspection. The fact that such reports have been so made shall be admissible in evidence solely to prove a compliance with this section but no report or any part thereof or statement contained therein shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such collisions.

(f) The property damage requirement in subsection (d) of this section for investigation and completion of the Uniform Traffic Collision Report shall be adjusted beginning January 1, 1997, and annually thereafter on January 1 of each calendar year by increasing the previous base rate by an additional $100, up to a maximum of $1,500.

(21 Del. C. 1953 § 4203; 54 Del. Laws, c. 160 § 1; 57 Del. Laws, c. 426; 57 Del. Laws, c. 670 § 14B; 59 Del. Laws, c. 391 § 2; 66 Del. Laws, c. 238 § 2; 70 Del. Laws, c. 258 §§ 1-3; 74 Del. Laws, c. 110 § 138; 76 Del. Laws, c. 401 §§ 10, 11.)

## § 4204 Report of damaged vehicles; cars involved in fatal collisions.

(a) The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a serious collision or struck by any bullet shall report to the nearest police station or sheriff's office within 24 hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner of such vehicle.

(b) Cars involved in collisions resulting in death to human beings shall not be moved from the place of the collision until arrival of police, except if needed to convey an injured person to a hospital or doctor.

(21 Del. C. 1953 § 4204; 54 Del. Laws, c. 160 § 1; 76 Del. Laws, c. 401 §§ 12, 13.)

## § 4205 Penalties.

(a) Whoever violates this chapter or Chapter 41 of this title shall for the first offense be fined not less than $25 nor more than $75. For each subsequent like offense, the person shall be fined not less than $57.50 nor more than $95. All second offenses, before being punishable as such, shall have been committed within 12 months after the commission of the first offense unless otherwise specifically provided.

(b) Subsection (a) of this section shall not apply to violations for which penalties are prescribed elsewhere in this chapter or Chapter 41 of this title.

(21 Del. C. 1953 § 4211; 54 Del. Laws, c. 160 § 1; 65 Del. Laws, c. 503 § 21; 68 Del. Laws, c. 9 § 40; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 106 § 29; 74 Del. Laws, c. 345 § 9; 78 Del. Laws, c. 208 §§ 11-13.)

## § 4205A Classification of offenders sentenced to imprisonment under this title.

(a) For offenses under this title, except those which involve injury or death caused to another person by the person's driving or operation of the vehicle or which involve a driving under the influence-related conviction or offense as defined in § 4177B(e)(1)a.-d. of this title, the terms of imprisonment defined in this title may be served at Supervision Accountability Level IV as defined in § 4204(c)(4) of Title 11.

(b) For offenses under this title which involve injury caused to another person by the person's driving or operation of the vehicle or a driving under the influence-related conviction or offense as defined in § 4177B(e)(1)a.-d. of this title, any term of imprisonment defined in this title shall be served at Supervision Accountability Level V as defined in § 4204(c)(5) of Title 11 or at Supervision Accountability Level IV as defined in § 4204(c)(4) of Title 11 provided that such Level IV placement must be served in a Department of Correction facility which requires full-time residence at the facility and that the person may not be outside the confines of that facility without armed supervision.

(c) For offenses under this title which involve death caused to another person by the person's driving or operation of the vehicle any term of imprisonment defined in this title shall be served at Supervision Accountability Level V as defined in § 4204(c)(5) of Title 11.

(d) A sentencing judge shall not designate under which provision of this section an offender sentenced to imprisonment for a violation of a provision of this title is to be classified to serve the offender's imprisonment. Classification pursuant to the provisions of this section of an offender sentenced to imprisonment for violation of a provision of this title shall be done at the discretion of the Department of Correction in accordance with Chapter 65 of Title 11.

(74 Del. Laws, c. 345 § 9; 70 Del. Laws, c. 186 § 1.)

## § 4206 Removal of vehicles from collision scene prohibited.

No person shall remove from the scene of a collision resulting in apparent property damage any vehicle without the consent of the owner of any property which has been damaged in such collision unless a police officer is present at the scene of such collision and authorizes the

removal.

For the purposes of this section, the term "person" shall not include the owner of the vehicle, the operator of the vehicle at the time of the collision or a passenger in such vehicle at the time of the collision.

(62 Del. Laws, c. 136 § 2; 76 Del. Laws, c. 401 §§ 14, 15.)

## § 4207 Uniformity of interpretation.

Chapters 41 and 42 of this title shall be so interpreted and construed as to effectuate the general purpose of those chapters to make uniform among the states the law relating to motor vehicles.

(21 Del. C. 1953 § 4220; 54 Del. Laws, c. 160 § 1; 62 Del. Laws, c. 136 § 1.)

# Part III
# Operation and Equipment
# Chapter 43
# EQUIPMENT AND CONSTRUCTION OF VEHICLES
## Subchapter I
## Equipment Requirements

### §§ /n 4301 -4316 [Effective until Sept. 26, 2016]

(a) Whoever violates §§ 4301-4305 of this title shall for the first offense be fined not less than $25 nor more than $115. For each subsequent like offense, the person shall be fined not less than $57.50 nor more than $230, or imprisoned not less than 10 nor more than 30 days, or both.

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

(c) Whoever violates § 4311A of this title shall be fined $500.

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

(e) 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 penalties 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.

(36 Del. Laws, c. 10 §§ 141, 142; 37 Del. Laws, c. 10 § 34; 38 Del. Laws, c. 30; 40 Del. Laws, c. 35 § 6; 40 Del. Laws, c. 37 § 1; Code 1935 §§ 5679, 5680, 5719; 45 Del. Laws, c. 292 § 2; 46 Del. Laws, c. 61; 21 Del. C. 1953 § 4315; 65 Del. Laws, c. 503 § 22; 68 Del. Laws, c. 9 §§ 41-43; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 399 §§ 2, 3; 75 Del. Laws, c. 164 § 2.)

### §§ /n 4301 -4316 [Effective Sept. 26, 2016]

(a) Whoever violates §§ 4301-4305 of this title shall for the first offense be fined not less than $25 nor more than $115. For each subsequent like offense, the person shall be fined not less than $57.50 nor more than $230, or imprisoned not less than 10 nor more than 30 days, or both.

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

(c) Whoever violates § 4311A of this title shall be fined $500.

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

(e) 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 penalties 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.

(f) A violation of § 4303(c) of this title shall also constitute a moving violation which shall be part of the person's driving record.

(36 Del. Laws, c. 10 §§ 141, 142; 37 Del. Laws, c. 10 § 34; 38 Del. Laws, c. 30; 40 Del. Laws, c. 35 § 6; 40 Del. Laws, c. 37 § 1; Code 1935 §§ 5679, 5680, 5719; 45 Del. Laws, c. 292 § 2; 46 Del. Laws, c. 61; 21 Del. C. 1953 § 4315; 65 Del. Laws, c. 503 § 22; 68 Del. Laws, c. 9 §§ 41-43; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 399 §§ 2, 3; 75 Del. Laws, c. 164 § 2; 80 Del. Laws, c. 277 § 1.)

### § 4301 Hard rubber tires.

Every solid rubber tire on a vehicle moved on any highway shall have rubber at least 1 inch thick above the edge of the flange of the entire periphery on its entire traction surface.

(36 Del. Laws, c. 10 § 121; Code 1935 § 5659; 21 Del. C. 1953 § 4301.)

### § 4302 Projections from periphery of tires; exceptions.

(a) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire, except as otherwise provided in this section. Farm machinery with tires having protuberances which will not injure the highway may be used, and tire chains of reasonable proportions may be used upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to

slide or skid.

(b) The use of studded tires on all motor vehicles using the highways of this State is permitted from October 15 to April 15.

(36 Del. Laws, c. 10 § 121; Code 1935 § 5659; 21 Del. C. 1953 § 4302; 58 Del. Laws, c. 128.)

## § 4303 Brakes — General requirements.

(a) Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and any trailer or semitrailer attached thereto including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least 2 wheels and shall be so constructed that no part which is liable to failure shall be common to the 2. A motorcycle need be equipped with only 1 brake. All brakes shall be maintained in good working order and shall conform to regulations, not inconsistent with this subchapter, to be promulgated by the Secretary. All brakes shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

(b) All braking distances specified in this subchapter shall apply to all vehicles mentioned herein, whether such vehicles are loaded or are not loaded to the maximum capacity permitted under Chapter 45 of this title.

(c) Except as provided in this subsection, no motor vehicle, when operated upon a highway in this State, shall utilize or employ any brake or braking system that is attached to, or an integral part of, the vehicle's internal combustion engine or exhaust systems. Nothing in this section shall be interpreted as prohibiting the equipping of any motor vehicle with a braking system that is attached to, or an integral part of, the vehicle's engine or exhaust systems. Nothing in this section shall be interpreted as prohibiting the use of a braking system that is attached to, or an integral part of, the vehicle's engine or exhaust system in an emergency situation or an emergency vehicle including police, fire, ambulance, emergency medical service vehicles or other emergency vehicles.

(36 Del. Laws, c. 10 § 123; 40 Del. Laws, c. 38 § 8; Code 1935 § 5661; 21 Del. C. 1953 § 4303; 57 Del. Laws, c. 670 § 15A; 76 Del. Laws, c. 368 § 1.)

## § 4304 Brakes — Performance requirements.

(a) The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop such vehicle when traveling 20 miles per hour within a distance of 30 feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed 1 percent.

(b) Under the road conditions mentioned in subsection (a) of this section, the hand brake shall be adequate to stop the vehicle within a distance of 55 feet and the hand brake shall be adequate to hold such vehicle stationary on any grade upon which operated.

(c) Under the road conditions mentioned in subsection (a) of this section, the service brakes upon a motor vehicle equipped with 2-wheel brakes only shall be adequate to stop the vehicle within a distance of 40 feet and the hand brake adequate to stop the vehicle within a distance of 55 feet.

(36 Del. Laws, c. 10 § 123; 40 Del. Laws, c. 38 § 8; Code 1935 § 5661; 21 Del. C. 1953 § 4304.)

## § 4305 Brakes — Trailers and semitrailers.

No trailer or semitrailer with a gross weight of load and vehicle in excess of 4,000 pounds shall be operated on the highways of this State at a speed in excess of 10 miles per hour unless equipped with suitable brakes controlled by the operator of the towing vehicle.

(36 Del. Laws, c. 10 § 123; Code 1935 § 5661; 21 Del. C. 1953 § 4305.)

## § 4306 Horns and other sound devices; unlawful use.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than 200 feet.

(b) Except as otherwise provided, no vehicle shall be equipped with and no person shall use upon a vehicle any siren, exhaust, compression or spark plug whistle, and no person at any time shall use a horn otherwise than as a reasonable warning or make any unnecessary or unreasonable loud or harsh sound by means of a horn or other warning device.

(c) No person operating or occupying a motor vehicle on any street, highway, alley, or parking lot shall operate or permit the operation of any music amplification system, including, but not limited to, any radio, tape player, compact disc player, or any other electrical device used for the amplification of music in or on the motor vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle. For the purpose of this subsection, "plainly audible" means any sound which clearly can be heard by unaided hearing faculties, however, words or phrases need not be discernible and bass reverberation alone shall be sufficient to so constitute.

(d) Subsection (c) of this section shall not apply to those in a parade which has been issued a permit nor to commercially licensed vendors in the legitimate operation of their businesses.

(e) Subsection (c) of this section shall not apply to any municipality of this State with a population in excess of 50,000 which has an ordinance addressing noise violations of that type. In the event that any such municipality repeals its ordinance without substituting requirements at least as restrictive as those found in subsection (c) of this section, then the provisions of subsection (c) of this section shall take effect within that municipality.

(36 Del. Laws, c. 10 § 124; Code 1935 § 5662; 21 Del. C. 1953 § 4306; 74 Del. Laws, c. 399 § 1.)

## § 4307 Warning devices for emergency vehicles.

(a) Every police, fire department and fire patrol vehicle and every ambulance used for emergency calls, except as provided in subsection (b) of this section, shall be equipped with a bell, siren or exhaust whistle.

(b) A vehicle used by a fire chief, deputy fire chief, assistant fire chief, or fire police officer of a duly organized fire department, which is not owned by or the property of the fire department, shall not be equipped with such warning devices.

(36 Del. Laws, c. 10 § 124; Code 1935 § 5662; 21 Del. C. 1953 § 4307; 57 Del. Laws, c. 670 § 15A; 61 Del. Laws, c. 461 § 2; 62 Del. Laws, c. 165 § 1; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 6 § 2.)

## § 4308 Rearview mirror.

All motor vehicles and motorcycles shall be equipped with a mirror so placed that the driver thereof may readily ascertain the presence of any vehicle traveling in the same direction and overtaking the driver's vehicle.

(36 Del. Laws, c. 10 § 125; Code 1935 § 5663; 21 Del. C. 1953 § 4308; 70 Del. Laws, c. 186 § 1.)

## § 4309 Obstructions to view on windshield or windows.

(a) No person shall drive any vehicle upon a highway with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear window of such motor vehicle, other than a certificate or other paper required to be so displayed by law.

(b) No person shall drive upon a highway a vehicle with a removable windshield placard issued pursuant to § 2135 of this title or pursuant to a similar statute of any other state or country hanging from or attached to the vehicle's front windshield rearview mirror. A person may be found guilty of violating this subsection whether or not the placard is valid.

(36 Del. Laws, c. 10 § 126; Code 1935 § 5664; 21 Del. C. 1953 § 4309; 73 Del. Laws, c. 397 § 4.)

## § 4310 Windshield wiper.

Every windshield on a motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(36 Del. Laws, c. 10 § 126; Code 1935 § 5664; 21 Del. C. 1953 § 4310.)

## § 4311 Mufflers; cutout prohibited.

(a) No person shall drive a motor vehicle, including a motorcycle, on a highway, including residential streets, unless such motor vehicle or motorcycle is equipped with a muffler in good working order and in accordance with manufacturer's specifications and in constant operation to prevent excessive or unusual noise.

(b) No person shall use a "muffler cutout" on any motor vehicle upon a highway.

(c) It shall be unlawful to sell or offer for sale any muffler without interior baffle plates or other effective muffling devices or to sell or offer for sale any "gutted muffler," "muffler cutout" or "straight exhaust."

(d) The provisions of this section shall only apply if there is not a violation of § 4311A of this title.

(36 Del. Laws, c. 10 § 127; 37 Del. Laws, c. 10 § 34; Code 1935 § 5665; 21 Del. C. 1953 § 4311; 59 Del. Laws, c. 371 § 1; 61 Del. Laws, c. 478 § 1; 75 Del. Laws, c. 164 § 3.)

## § 4311A Muffler requirements for commercial vehicles equipped with engine compression brake devices.

(a) No person shall drive a commercial vehicle equipped with an engine compression brake device on a highway, including residential streets, unless such commercial vehicle is also equipped with a muffler in good working order and in accordance with manufacturer's specifications and in constant operation to prevent excessive noise.

(b) For the purposes of this section, "engine compression brake device" shall mean any device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

(75 Del. Laws, c. 164 § 1.)

## § 4312 Safety glass — Equipment; definition.

(a) No person shall operate, on any public highway or street in this State, any motor vehicle which is registered in the State and which has been manufactured or assembled on or after July 1, 1937, unless such motor vehicle and/or any trailer drawn thereby is equipped with safety glass, wherever glass is used in partitions, doors, windows or windshields.

(b) The term "safety glass" as used in this subchapter means glass so treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from external sources or by glass when the glass is cracked or broken.

(40 Del. Laws, c. 35 §§ 1, 2; Code 1935 §§ 5714, 5715; 41 Del. Laws, c. 234 § 1; 21 Del. C. 1953 § 4312.)

## § 4313 Safety glass — Federal safety standards applicable to windshield, front side windows and side wings; window tinting.

(a) No person shall operate any motor vehicle on any public highway, road or street with the front windshield, the side windows to the immediate right and left of the driver and/or side wings forward of and to the left and right of the driver that do not meet the requirements of Federal Motor Vehicle Safety Standard 205 in effect at the time of its manufacture.

(b) Nothing in this section shall prohibit the use of any products or materials along the top edge of the windshield so long as such

products or materials are transparent and do not encroach upon the AS-1 portion of the windshield as provided by FMVSS 205 and [former] FMVSS 128.

(c) No person shall operate any motor vehicle on any public highway, road or street which does not conspicuously display a certificate by the manufacturer of any "after manufacture" window tinting material which may have been installed that such window tinting material meets the requirements of FMVSS 205 in effect at the time of the vehicle's manufacture. It shall be a valid defense to any charge under this subsection if the person so charged produces in court a validated mandatory inspection notice showing that the Division of Motor Vehicles has examined the motor vehicle since the date of offense and certifies compliance with FMVSS 205.

(d) No person shall be convicted under this section if that person possesses a statement signed by a licensed practitioner of medicine and surgery or osteopathic medicine or optometry verifying that tinted windows are medically necessary for the owner or usual operator of said vehicle.

(e) This section shall not apply to anodized glass which is correctly installed in the windshield and windows of an antique motor vehicle or street rod, as such are defined in §§ 2196 and 2197 of this title or of a motor vehicle validly insured under an antique, classic or street rod designated motor vehicle insurance policy that covers the motor vehicle, pursuant to § 2118 of this title.

(f) This section shall not apply to any police K-9 unit vehicles, or any surveillance vehicles operated by a police officer, as defined under § 8401(5) of Title 11. This exception shall not apply to marked vehicles, except for police K-9 unit vehicles, or those unmarked vehicles used primarily for regular duty patrols.

(40 Del. Laws, c. 35 § 4; Code 1935 § 5717; 46 Del. Laws, c. 63; 21 Del. C. 1953 § 4313; 57 Del. Laws, c. 670 § 15B; 64 Del. Laws, c. 33 § 1; 67 Del. Laws, c. 227 § 1; 68 Del. Laws, c. 210 § 1; 70 Del. Laws, c. 357 § 1; 71 Del. Laws, c. 396 § 1; 74 Del. Laws, c. 393 § 1; 79 Del. Laws, c. 230 § 1.)

## § 4313A Commercial window tinting.

(a) No person who installs window tinting material in motor vehicles as part of a commercial activity shall do so in violation of the requirements of § 4313 of this title.

(b) Whoever violates subsection (a) of this section shall be fined 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.

(74 Del. Laws, c. 39 § 1.)

## § 4314 Lights and reflectors; change of original design or performance of vehicle.

A person may not use on any motor vehicle or trailer any light, lamp or reflector that tends to change the original design or performance of the motor vehicle or trailer, unless the light, lamp or reflector is of a type that has been approved by the Department and is mounted, adjusted and aimed in accordance with regulations adopted by the Secretary. Such regulations shall not violate the Federal Motor Vehicle Safety Standards.

(66 Del. Laws, c. 109 § 1.)

## § 4315 Penalties for §§ 4301-4316.

(a) Whoever violates §§ 4301-4305 of this title shall for the first offense be fined not less than $25 nor more than $115. For each subsequent like offense, the person shall be fined not less than $57.50 nor more than $230, or imprisoned not less than 10 nor more than 30 days, or both.

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

(c) Whoever violates § 4311A of this title shall be fined $500.

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

(e) 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 penalties 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.

(f) A violation of § 4303(c) of this title shall also constitute a moving violation which shall be part of the person's driving record.

(36 Del. Laws, c. 10 §§ 141, 142; 37 Del. Laws, c. 10 § 34; 38 Del. Laws, c. 30; 40 Del. Laws, c. 35 § 6; 40 Del. Laws, c. 37 § 1; Code 1935 §§ 5679, 5680, 5719; 45 Del. Laws, c. 292 § 2; 46 Del. Laws, c. 61; 21 Del. C. 1953 § 4315; 65 Del. Laws, c. 503 § 22; 68 Del. Laws, c. 9 §§ 41-43; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 399 §§ 2, 3; 75 Del. Laws, c. 164 § 2; 80 Del. Laws, c. 277 § 1.)

## § 4316 Directional signal lights.

All new vehicles licensed in this State must be equipped with directional signal lights.

(21 Del. C. 1953 § 4316; 49 Del. Laws, c. 96 § 1.)

## § 4317 Protectors or flaps behind rear wheels of vehicles.

(a) No person shall operate, cause or permit to be operated any bus or commercial motor vehicle having a gross weight of 8,000 pounds or more, including semitrailers and trailers, upon the highways of this State unless it is equipped with suitable metal protectors or substantial flexible flaps behind the rearmost wheels of the vehicle or combination to prevent the projection of rocks, dirt, water or other substances to the rear and to minimize side spray.

(b) The flap, shield or other device shall extend down from the vehicle's body to not more than 8 inches above the road surface, but not more than 15 inches when the vehicle is in an unloaded condition. The protector or flap shall extend laterally at least the width of the tire being protected.

(c) If any bus or commercial motor vehicle, including semitrailers and trailers, is so designed or constructed that the objectives in subsection (a) of this section are accomplished by reason of fender or body construction or other means of enclosure, either permanent or temporary, then the requirements of this section have been satisfied.

(d) This section shall not apply to any farm tractor or to uncoupled truck tractors or other vehicles where the construction is such that complete freedom around the wheel area is necessary to secure the designed use of the vehicle.

(e) The Director of the Division of Motor Vehicles shall set and adopt such regulations as are necessary to implement this section.

(f) Whoever violates this section shall for the first offense be fined not less than $10 nor more than $28.75. For each subsequent like offense, the person shall be fined not less than $28.75 nor more than $100.

(21 Del. C. 1953 § 4359; 57 Del. Laws, c. 684; 58 Del. Laws, c. 410; 65 Del. Laws, c. 503 § 23; 68 Del. Laws, c. 9 § 44; 70 Del. Laws, c. 186 § 1.)

## § 4318 Bumper, frame rail, and body heights.

(a) No passenger vehicle or station wagon that is required to be registered under Chapter 21 of this title shall be registered or operated upon any highway of the State if the bumper height of such vehicle exceeds 22 inches from the ground to the bottom of the bumper, or if the vehicle frame rail is higher than the attached bumper, or if the maximum distance between the vehicle body and vehicle frame rail exceeds 3 inches.

(b) Vehicles not included in subsection (a) of this section that are required to be registered under Chapter 21 of this title shall not be registered or operated upon any highway of the State if the bumper height of such vehicle exceeds 30 inches from the ground to the bottom of the bumper, or if the vehicle frame rail is higher than the attached bumper, or if the maximum distance between the vehicle body and vehicle frame rail exceeds 3 inches.

(c) The following vehicles are exempt from this section: antique motor vehicles registered under § 2196 of this title; authorized emergency vehicles; motor vehicles with a gross vehicle weight rating of 10,000 pounds or greater; and vehicles registered with farm truck plates (FT tags), as defined in § 2113(1) of this title.

(d) Any person found guilty of operating a motor vehicle in violation of this section shall, for the first offense, be fined not less than $50 nor more than $115 For each subsequent like offense within one year, such person shall be fined not less than $100 nor more than $230. Measurements made with an over-the-counter measuring device shall be prima facie evidence of a violation.

(62 Del. Laws, c. 147 § 1; 68 Del. Laws, c. 9 § 45; 70 Del. Laws, c. 85 § 1; 70 Del. Laws, c. 186 § 1.)

## § 4319 Mandatory reverse warning — Commercial vehicle.

(a) Except as to farm vehicles, all commercial vehicles registered in the State with a gross weight rating of 26,001 pounds or more shall be equipped with:

(1) An audible reverse warning signal, so as to adequately place an individual within 50 feet of such vehicle on notice that such commercial vehicle intends to and/or is in the process of moving backwards in a reverse gear;

(2) A backup camera visible in the cab of the vehicle; or

(3) An audible warning device that will alert the driver when the vehicle is approaching an object.

(b) This section shall only apply to commercial vehicles that are titled on or after January 1, 2014.

(c) Whomever violates this section shall be subject to a civil penalty of $75. For each subsequent offense within 2 years of a prior offense, the person shall be subject to a civil penalty of $175.

(79 Del. Laws, c. 179 § 1.)

# Subchapter II

# Lights

## § 4331 When lighted lamps are required.

(a) Every vehicle upon a highway within this State at any time from sunset to sunrise, or during fog, smoke, rain or when windshield wipers are in use because of weather conditions or at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead shall display lighted lamps and illuminating devices, exclusive of parking lamps, as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles.

(b) The portion of subsection (a) of this section criminalizing the failure to display lighted lamps and illuminating devices when windshield wipers are in use because of weather conditions shall constitute a secondary offense in that no person shall be stopped by a police officer for that failure alone.

(36 Del. Laws, c. 10 §§ 128, 130; Code 1935 §§ 5666, 5668; 21 Del. C. 1953 § 4331; 50 Del. Laws, c. 292 § 1; 59 Del. Laws, c. 504 § 1; 69 Del. Laws, c. 417 §§ 1-3.)

## § 4332 Visibility distance and mounted height of lamps.

(a) Whenever requirement is hereinafter declared as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in § 4331 of this title in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(36 Del. Laws, c. 10 §§ 128, 130; Code 1935 §§ 5666, 5668; 21 Del. C. 1953 § 4332; 50 Del. Laws, c. 292 § 1.)

## § 4333 Head lamps on motor vehicles.

(a) Every motor vehicle, trailer, semitrailer and pole motor-driven cycle shall be equipped with at least 2 head lamps with at least 1 on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.

(b) Every motorcycle and every motor-driven cycle shall be equipped with at least 1 and not more than 2 head lamps which shall comply with the requirements and limitations of this chapter.

(c) Every head lamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches, to be measured as set forth in § 4332(b) of this title.

(36 Del. Laws, c. 10 §§ 128, 130; Code 1935 §§ 5666, 5668; 21 Del. C. 1953 § 4333; 50 Del. Laws, c. 292 § 1; 51 Del. Laws, c. 235.)

## § 4334 Tail lamps.

(a) Every motor vehicle, trailer, semitrailer and pole trailer and any other vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least 1 tail lamp, mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of 500 feet to the rear, provided, that, in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified. Provided, however, that every such above mentioned vehicle, other than a truck tractor, registered in this State and manufactured or assembled after July 1, 1956, shall be equipped with at least 2 tail lamps mounted on the rear, which, when lighted as herein required, shall comply with this section.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches nor less than 20 inches.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(36 Del. Laws, c. 10 § 128; Code 1935 § 5666; 21 Del. C. 1953 § 4334; 50 Del. Laws, c. 292 § 1.)

## § 4335 New vehicles to be equipped with reflectors.

(a) Every new motor vehicle hereafter sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, 2 red reflectors, except that every motorcycle and every motor-driven cycle shall carry at least 1 reflector meeting the requirements of this section, and except that vehicles of the type mentioned in § 4338 of this title shall be equipped with reflectors as required in those sections applicable thereto.

(b) Every such reflector shall be mounted on the vehicle at a height not less than 20 inches nor more than 60 inches measured as set forth in § 4332(b) of this title, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 350 feet to 100 feet from such vehicle when directly in front of lawful upper beams of head lamps, except that visibility from a greater distance is hereinafter required of reflectors on certain types of vehicles.

(21 Del. C. 1953 § 4335; 50 Del. Laws, c. 292 § 1.)

## § 4336 Stop lamps and turn signals required on new motor vehicles.

It shall be unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this State, or for any person to drive such vehicle on the highways, unless equipped with at least 1 stop lamp meeting the requirements of § 4347 of this title.

(21 Del. C. 1953 § 4336; 50 Del. Laws, c. 292 § 1.)

## § 4337 Application of succeeding sections.

Those sections of this chapter which follow immediately, including §§ 4338-4342 of this title, relating to clearance and marker lamps, reflectors and stoplights, shall apply as stated in said sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors and certain trailers, semitrailers and pole trailers, respectively, when operated upon any highway, and such vehicles shall be equipped as required and all lamp equipment required shall be lighted at times mentioned in § 4331 of this title, except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render

clearly discernible persons and vehicles on the highway at a distance of 500 feet.

(21 Del. C. 1953 § 4337; 50 Del. Laws, c. 292 § 1.)

## § 4338 Additional equipment required on certain vehicles.

In addition to other equipment required in this chapter, the following vehicles shall be equipped as herein stated under the conditions stated in § 4337 of this title:

(1) On every bus or truck, whatever its size, there shall be the following:

On the rear, 2 reflectors, 1 at each side, and 1 stoplight;

(2) On every bus or truck 80 inches or more in overall width, in addition to the requirements in paragraph (1) of this section:

On the front, 2 clearance lamps, 1 at each side; on the rear, 2 clearance lamps, 1 at each side; on the side, 2 side marker lamps, 1 at or near the front and 1 at or near the rear; on each side, 2 reflectors, 1 at or near the front and 1 at or near the rear;

(3) On every truck tractor:

On the front, 2 clearance lamps, 1 at each side; on the rear, 1 stoplight;

(4) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:

On the front, 2 clearance lamps, 1 at each side; on each side, 2 side marker lamps, 1 at or near the front and 1 at or near the rear; on each side, 2 reflectors, 1 at or near the front and 1 at or near the rear; on the rear, 2 clearance lamps, 1 at each side; also 2 reflectors, 1 at each side and 1 stoplight;

(5) On every pole trailer in excess of 3,000 pounds gross weight:

On each side, 1 side marker lamp and 1 clearance lamp which may be in combination to show to the front, side and rear; on the rear of the pole trailer or load, 2 reflectors, 1 at each side;

(6) On every trailer, semitrailer or pole trailer weighing 3,000 pounds gross or less:

On the rear, 2 reflectors, 1 on each side. If any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stoplight on the towing vehicle, then such vehicle shall also be equipped with 1 stoplight.

(21 Del. C. 1953 § 4338; 49 Del. Laws, c. 220 § 25; 50 Del. Laws, c. 292 § 1.)

## § 4339 Color of clearance lamps, side marker lamps, backup lamps and reflectors.

(a) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display and reflect an amber color.

(b) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display and reflect a red color.

(c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stoplight or other signal device, which may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a backup lamp shall be white or amber.

(21 Del. C. 1953 § 4339; 50 Del. Laws, c. 292 § 1; 77 Del. Laws, c. 263 §§ 1, 2.)

## § 4340 Mounting of reflectors, clearance lamps and side marker lamps.

(a) Reflectors, when required by § 4338 of this title, shall be mounted at a height not less than 24 inches and not higher than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 24 inches, the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

(b) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

(21 Del. C. 1953 § 4340; 50 Del. Laws, c. 292 § 1.)

## § 4341 Visibility of reflectors, clearance lamps and marker lamps.

(a) Every reflector upon any vehicle referred to in § 4338 of this title shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the front and rear, respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the time lights are required at a distance of 500 feet from the side of the vehicle on which mounted.

(21 Del. C. 1953 § 4341; 50 Del. Laws, c. 292 § 1.)

## § 4342 Obstructed lights not required.

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(21 Del. C. 1953 § 4342; 50 Del. Laws, c. 292 § 1.)

## § 4343 Lamp or flag on projecting load.

(a) Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the time specified in § 4331 of this title, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be, in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

(b) This section does not apply to:

(1) Any vehicle carrying wooden prefabricated roof trusses in an inverted position, if the trusses do not extend more than 10 feet beyond the rear of the bed or body of the vehicle;

(2) A combination of vehicles carrying an indivisible load if the load is not over 70 feet long, and the load is being transported during daylight hours; or

(3) Any vehicle or combination of vehicles carrying:

a. Piling, poles or mill logs;

b. Nursery stock; or

c. Crew or racing shells.

(c) Subject to the maximum length limits of this section, the load on any vehicle operated alone or the load on the front vehicle of a combination of vehicles:

(1) Except as provided in paragraph (c)(2) of this section, may not extend more than 3 feet beyond the foremost part of the vehicle; and

(2) May extend more than 3 feet beyond the foremost part of a vehicle equipped with front-end loading attachments and containers used in collecting garbage, rubbish, refuse or recyclable materials when the vehicle is actively engaged in collecting garbage, rubbish, refuse or recyclable materials.

(21 Del. C. 1953 § 4343; 50 Del. Laws, c. 292 § 1; 71 Del. Laws, c. 249 §§ 1, 2.)

## § 4344 Lamps on parked vehicles.

(a) Every vehicle, except motorcycles, shall be equipped with at least 1 lamp which, when lighted, shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and a red light visible from a distance of 500 feet to the rear of the vehicle. The lamp shall be situated so that 1 such lamp, or combination of lamps meeting the requirements of this section, is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

(b) Whenever a vehicle (whether attended or unattended) is parked or stopped upon a street or highway, at a time when there is insufficient light to reveal any person or object within a distance of 500 feet upon the highway, such vehicle shall be equipped with and shall display lamps meeting the requirements of subsection (a) of this section, but it shall not be necessary to display the lamps upon a vehicle which is lawfully parked upon a portion of a roadway which is ordinarily or customarily used for parking vehicles.

(c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

(36 Del. Laws, c. 10 §§ 134, 141; 37 Del. Laws, c. 10 § 34; Code 1935 §§ 5672, 5679; 45 Del. Laws, c. 292 § 2; 21 Del. C. 1953 § 4344; 50 Del. Laws, c. 292 § 1; 60 Del. Laws, c. 384 § 1.)

## § 4345 Lamps on other vehicles and equipment.

Every vehicle, including animal-drawn vehicles and vehicles referred to in § 4355(c) of this title, not specifically required by this subchapter to be equipped with lamps or other lighting devices, shall at all times specified in § 4331 of this title be equipped with at least 1 lamp displaying a white light visible from a distance of not less than 500 feet to the front of said vehicle and shall also be equipped with 2 lamps displaying red light visible from a distance of not less than 500 feet to the rear of said vehicle, or as an alternative, 1 lamp displaying a red light visible from a distance of not less than 500 feet to the rear and 2 red reflectors visible for distances of 100 to 600 feet to the rear when illuminated by the upper beams of head lamps.

(21 Del. C. 1953 § 4345; 50 Del. Laws, c. 292 § 1.)

## § 4346 Spot lamps and auxiliary lamps.

(a) Spot lamps. — Any motor vehicle may be equipped with not to exceed 2 spot lamps, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle.

(b) Fog lamps. — Any motor vehicle may be equipped with not to exceed 2 fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none

of the high intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of 4 inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in § 4349 of this title.

(c) Auxiliary passing lamp. — Any motor vehicle may be equipped with not to exceed 1 auxiliary passing lamp mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. Section 4349 of this title shall apply to any combination of head lamps and auxiliary passing lamps.

(d) Auxiliary driving lamp. — Any motor vehicle may be equipped with not to exceed 1 auxiliary driving lamp mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. Section 4349 of this title shall apply to any combination of head lamps and auxiliary driving lamps.

(21 Del. C. 1953 § 4346; 50 Del. Laws, c. 292 § 1.)

## § 4347 Signal lamps and signal devices.

(a) Any motor vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 100 feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake and be incorporated with 1 or more other rear lamps.

(b) Any motor vehicle may be equipped and when required under this chapter shall be equipped with lamps or mechanical signal devices showing to the front and rear for the purpose of indicating an intention to turn either to the right or left. When lamps are used for such purpose, the lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than 100 feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 100 feet to the rear in normal sunlight. When actuated such lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. Where mechanical signal devices are used for such purpose, said devices shall be self-illuminated when in use at the times mentioned in § 4331 of this title.

(c) No stop lamp or signal lamp or device shall project a glaring light.

(21 Del. C. 1953 § 4347; 50 Del. Laws, c. 292 § 1.)

## § 4348 Additional lighting equipment.

(a) Any motor vehicle may be equipped with not more than 2 side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than 1 running board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with not more than 2 backup lamps either separately or in combination with other lamps, but any such backup lamp shall not be lighted when the motor vehicle is in forward motion.

(d)(1) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing and when so equipped may display such warning in addition to any other warning signals required by this subchapter.

(2)a. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber.

b. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red.

c. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night.

(3) Flashing headlights may be installed upon any motor vehicle being used by a fire chief, assistant fire chief, fire engineer, fire police officer, police officer, a firefighter who is a member of any regularly established fire company or by an ambulance attendant who is a member of any regularly established ambulance service. Flashing lights shall only be installed if duly authorized by the fire chief or ambulance captain of the respective fire or ambulance company. The lights shall be used only in response to duty as a first responder. Only those firefighters or ambulance attendants of regularly established fire companies duly designated as first responders by their respective fire chief, or those ambulance attendants of other regularly established ambulance services duly designated as first responders by their respective ambulance captain, shall be authorized to use such flashing lights, notwithstanding § 4353(c) of this title. Nothing in this section shall be interpreted to grant emergency vehicle status to firefighters or ambulance attendants making use of such signals in their personal vehicles pursuant to § 4106 of this title. Flashing lights as used in this subsection shall mean a sudden and transient outburst of bright light either operated or activated by 4-way flashers and/or by a high and low beam headlight switch on the vehicle.

(21 Del. C. 1953 § 4348; 50 Del. Laws, c. 292 § 1; 70 Del. Laws, c. 414 § 1; 77 Del. Laws, c. 6 §§ 4, 6.)

## § 4349 Multiple beam road lighting equipment.

Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of

light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(1) There shall be an uppermost distribution of light or composite beam so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading;

(2) There shall be a lowermost distribution of light or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver;

(3) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this State after January 1, 1956, which has multiple beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use and shall not otherwise be lighted. The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(21 Del. C. 1953 § 4349; 50 Del. Laws, c. 292 § 1.)

## § 4350 Use of multiple beam road lighting equipment.

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in § 4331 of this title, the driver shall use a distribution of light or composite beam directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(1) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam specified in § 4349(2) of this title shall be deemed to avoid glare at all times, regardless of road contour and loading;

(2) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in § 4349(1) of this title.

(21 Del. C. 1953 § 4350; 50 Del. Laws, c. 292 § 1.)

## § 4351 Lighting equipment on motor-driven cycles.

The head lamp or head lamps upon every motor-driven cycle may be of the single beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every such head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour, and at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour, and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour;

(2) In the event the motor-driven cycle is equipped with a multiple beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in § 4349(1) of this title, and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in § 4349 of this title;

(3) In the event the motor-driven cycle is equipped with a single beam lamp or lamps, such lamps shall be so aimed that when the vehicle is loaded none of the high intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(21 Del. C. 1953 § 4351; 50 Del. Laws, c. 292 § 1.)

## § 4352 Number of driving lamps required or permitted.

(a) At all times specified in § 4331 of this title, at least 2 lighted lamps shall be displayed, 1 on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with head lamps as required in this subchapter is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of 4 of any such lamps on the front of a vehicle shall be lighted at any 1 time when upon a highway.

(21 Del. C. 1953 § 4352; 50 Del. Laws, c. 292 § 1.)

## § 4353 Special restrictions on lamps.

(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than 300 candlepower, shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof. This section shall not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this subchapter.

(c) Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment, vehicles authorized

by the Secretary of Safety and Homeland Security if determined to be in the interest of public safety, or on any vehicle as a means of indicating a right or left turn or the presence of a vehicular hazard requiring unusual care in approaching, overtaking or passing, or when included in a motorcycle, moped, or motorized scooter brake light system in which the brake lamp pulses rapidly for no more than 5 seconds when the brake is applied, and then converts to a continuous light as a normal brake lamp until the time that the brake is released.

(21 Del. C. 1953 § 4353; 50 Del. Laws, c. 292 § 1; 65 Del. Laws, c. 468 § 1; 75 Del. Laws, c. 89 § 281(b); 80 Del. Laws, c. 255 § 1.)

## § 4354 Standards for lights on snow removal equipment.

(a) The Department of Safety and Homeland Security shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow removal equipment when operated on the highways of this State in lieu of the lamps otherwise required on motor vehicles by this subchapter. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Association of State Highway Officials.

(b) It shall be unlawful to operate any snow removal equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

(21 Del. C. 1953 § 4354; 50 Del. Laws, c. 292 § 1; 57 Del. Laws, c. 670 § 15C; 74 Del. Laws, c. 110 § 138.)

## § 4355 Scope and effect of regulations.

(a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this subchapter, or which is equipped in any manner in violation of this subchapter or for any person to do any act forbidden or fail to perform any act required under this subchapter.

(b) Nothing contained in this subchapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with this subchapter.

(c) This subchapter, with respect to equipment on vehicles, shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(21 Del. C. 1953 § 4355; 50 Del. Laws, c. 292 § 1.)

## § 4356 Use of flashing lights.

(a) Any motor vehicle used by a fire chief, deputy fire chief, assistant fire chief, chief engineer, fire police officer and Chief EMS officer may have placed upon such motor vehicle flashing blue and white lights. Such flashing blue and white lights shall be used by the fire chief, deputy fire chief, assistant fire chief, chief engineer, fire police officer and Chief EMS officer of any regularly established fire company or ambulance company only in the performance of their duties. The white lights permitted under this subsection shall be embedded in, or otherwise associated with the activation or operation of, the headlamps and/or the flashing turn signal lights of the vehicle.

(b) A police vehicle, a volunteer fire company-owned vehicle or a City of Wilmington bureau of fire-owned vehicle may have placed upon such vehicle flashing blue and red lights or flashing blue, red and/or white lights.

(21 Del. C. 1953 § 4357; 53 Del. Laws, c. 13; 61 Del. Laws, c. 155 § 1; 62 Del. Laws, c. 165 § 2; 68 Del. Laws, c. 37 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 20 §§ 1, 2; 77 Del. Laws, c. 6 § 3.)

## § 4356A Use of revolving or flashing green light.

Any motor vehicle used by a fire department or police department and emergency vehicles of state, federal, county or municipal departments, or public service corporations as are designated or authorized as emergency vehicles by the Secretary of Safety and Homeland Security, may be equipped with a green revolving or flashing light for use only when the vehicle is in service at an accident, fire or disaster scene to signify a command post to which fire and police officials may report for instructions or orders, or for use on hazardous material response vehicles traveling to such scene on the request of the fire department or the police department. Such green revolving or flashing lights may only be used on a vehicle for the purposes and in the manner stated in this section.

(63 Del. Laws, c. 365 § 1; 75 Del. Laws, c. 89 § 281(c).)

## § 4357 Carrying of flares in certain vehicles; use upon becoming disabled.

(a) No person shall operate any vehicle having a width in any part in excess of 80 inches or a gross weight of vehicle and load of 8,000 pounds or more upon the highways of this State outside of a business or residential district during the period when lighted lamps must be displayed on vehicles, unless there shall be carried in such vehicle at least 3 flares, or 3 red electric lanterns or 3 portable red emergency reflectors capable of being distinguished at a distance of not less than 600 feet under normal atmospheric conditions at night.

(b) Whenever any vehicle described in subsection (a) of this section or its lighting equipment is disabled during the period when lighted lamps must be displayed and such vehicle cannot immediately be removed from the main traveled portion of a highway outside of a business or residential district, the driver or other person in charge of such vehicle shall cause flares, lanterns or reflectors to be lighted and placed upon the highway, 1 at a distance of approximately 100 feet in advance of such vehicle, 1 at a distance of approximately 100 feet to the rear of the vehicle and the third upon the roadway alongside of the vehicle. If the vehicle is transporting flammables, 3 red reflectors

shall be so placed so as to afford a warning of the presence of the vehicle on the highway in lieu of such other signals and no open burning flare shall be placed adjacent to any such vehicle.

(21 Del. C. 1953 § 4358; 57 Del. Laws, c. 545 § 2.)

### § 4358 Penalties.

Whoever violates this subchapter shall for the first offense be fined not less than $10 nor more than $28.75. For each subsequent like offense, the person shall be fined not less than $28.75 nor more than $100.

(21 Del. C. 1953 § 4356; 50 Del. Laws, c. 292 § 1; 65 Del. Laws, c. 503 § 24; 68 Del. Laws, c. 9 § 46; 70 Del. Laws, c. 186 § 1.)

## Subchapter III

## School Buses

### § 4361 Skid chains and snow tires; penalty.

When the highways are covered with snow or ice, the operator of any school bus shall not transport school children upon any of the highways of this State unless all rear wheels are equipped with tires having treads designed for use in snow, which tires must be in such condition as to serve the purpose for which they are designed. Any person violating this section shall be fined not less than $10 nor more than $100, or imprisoned not more than 10 days or both.

(43 Del. Laws, c. 192 §§ 1, 2; 21 Del. C. 1953 § 4363; 49 Del. Laws, c. 240; 77 Del. Laws, c. 312 § 6.)

### §§ 4362 -4365. Markings; color and size; flashing lamps; stop signal device.

(Repealed by 77 Del. Laws, c. 312 § 7, effective June 28, 2010.)

### § 4366 Communication devices.

Every school bus being used for the transportation of children shall be equipped with a radio or telephonic communication device that will allow the driver of the bus to call for or receive calls for assistance in the event of an emergency. All costs associated with the purchase of communication devices and if applicable, the associated line charges, will be the responsibility of the State. All costs for use of communication devices for non 911 communications shall be the responsibility of the school district. Notwithstanding the above, any school district shall be free to absorb any such costs to its own account.

(70 Del. Laws, c. 508 § 1; 74 Del. Laws, c. 274 § 1.)

### § 4367 Air conditioning.

(a) School buses used to transport special education students that have a medical need for air conditioning (specified by a physician), and that go to a special education school may be air conditioned.

(b) Internal ceiling-mounted air conditioning units mounted above the seats within the head protection zone or at the rear of the bus shall be padded with materials meeting FMVSS 302 and FMVSS 222 requirements.

(71 Del. Laws, c. 354 § 377.)

## Subchapter IV

## Special Provisions

### § 4371 Construction of vehicles to prevent escape of contents; penalty.

(a) No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

(b) Whoever violates subsection (a) of this section shall for the first offense be fined not less than $10 nor more than $28.75. For each subsequent like offense, the person shall be fined not less than $28.75 nor more than $100.

(36 Del. Laws, c. 10 §§ 127, 141; 37 Del. Laws, c. 10 § 34; Code 1935 §§ 5665, 5679; 21 Del. C. 1953 § 4371; 65 Del. Laws, c. 503 § 25; 68 Del. Laws, c. 9 § 47; 70 Del. Laws, c. 186 § 1.)

### § 4372 Transportation of meat scrap, bones; penalty.

Whoever transports upon a public highway any meat scrap, waste, bones or waste animal matter, except inside a vehicle having a closed body, the doors of which are kept securely fastened while the vehicle is moving on the highway, shall be fined not more than $115, or imprisoned not more than 30 days or both.

(48 Del. Laws, c. 120 §§ 1, 2; 21 Del. C. 1953 § 4372; 68 Del. Laws, c. 9 § 48.)

### § 4373 Unlawful display of club insignia; penalty.

(a) No person who is not a member of the Delaware Automobile Association shall exhibit or display within this State any membership

card, sign, token or other insignia of the Association, with intent to make it appear that the person is a member of the Delaware Automobile Association or entitled to any of the benefits or advantages resulting from membership therein.

(b) Whoever violates any provision of this section shall be fined not more than $57.50.

(Code 1915 § 3486A; 31 Del. Laws, c. 55; Code 1935 § 3962; 21 Del. C. 1953 § 4374; 68 Del. Laws, c. 9 § 49; 70 Del. Laws, c. 186 § 1.)

### § 4374 Equipment required on motor vehicles transporting railroad employees; penalty.

(a) Every motor vehicle provided by a railroad company and used to transport employees shall be equipped with adequate seating facilities, heating facilities and facilities for communication between occupants of the front seat of the vehicle and the occupants in the rear compartment of the vehicle. This requirement shall not apply to motor vehicles used to transport employees distances of less than 5 miles from their regular assembly point nor in cases of extreme emergency.

(b) If any dispute arises as to the adequacy of the facilities provided for in this section, it shall be submitted to and decided by the Director of the Division of Motor Vehicles.

(c) The Department may rescind, cancel or suspend the registration of any motor vehicle described in subsection (a) of this section and may rescind, cancel, suspend or take possession of the current registration plates of any such motor vehicle which is determined by the Department to be not equipped as required by this section.

(60 Del. Laws, c. 653 § 1.)

## Subchapter V

## Brake Fluids

### §§ 4381 -4387. Definitions; Prohibition; Misbranding; Adulteration; Standards and specifications; Enforcement; Penalties.

(Repealed by 72 Del. Laws, c. 84 § 1, eff June 25, 1999.)

# Part III
# Operation and Equipment
# Chapter 44
# ABANDONED VEHICLES

## § 4401 Purpose; abandoned vehicles on private property or public highways; definition.

(a) The purpose of this chapter is to eliminate abandoned vehicles which tend to impede traffic in the streets or interfere with the enjoyment of, and reduce the value of, private property, to invite plundering, to create fire hazards and other safety and health hazards to children as well as to adults, to interfere with the comfort and well-being of the public and to create, extend and aggravate urban blight.

(b) Any vehicle that is either: (1) inoperable, dismantled, wrecked, or which displays expired registration plates which are at least 30 days expired, or which displays no registration plates, or from which major components have been removed, is in such a state of disrepair as to be incapable of being operated in the manner for which it is designed and is situated on private property appearing to have been abandoned; or (2) which is inoperable, dismantled, wrecked, or which displays expired registration plates which are at least 30 days expired, or which displays no registration plates, or from which the major components have been removed and which shall have been placed upon any State or public highway or property or the property or roads of any political subdivision or the State or public highways within a municipality or upon any express highway in the State for a period in excess of 12 hours without being removed, shall be considered to be abandoned for the purpose of this chapter, except:

(1) That vehicles and equipment used or to be used in the construction, operation or maintenance of public utility facilities and which are left in a manner which does not interfere with the normal movement of traffic shall not be considered abandoned vehicles for the purposes of this chapter;

(2) Those vehicles whose owners have properly parked and locked them and have notified the State Police, county police or municipal police, as the case may be, as designated in § 4402 of this title, that the owner desires to leave the vehicle so parked and secured for a period not to exceed 30 days, except that if during such period the vehicle is no longer secured, or, in the opinion of the State Police, county police or municipal police, has become a danger to the public, then the vehicle shall be subject to the provisions of this chapter.

(c) As used in this chapter, the term "express highway" or "state highway" or "public highway" shall include any portion of the highway located within the right-of-way lines or, in the case of limited access highway, the denial of access lines, including shoulders and median strip.

(21 Del. C. 1953 § 4401; 55 Del. Laws, c. 173; 57 Del. Laws, c. 204; 57 Del. Laws, c. 713 § 1; 65 Del. Laws, c. 46 § 1; 74 Del. Laws, c. 60 §§ 1, 2, 3.)

## § 4402 Enforcement; removal of abandoned vehicles; transfer thereof.

(a) This chapter shall be enforced with respect to state or public highways or property within a municipality which maintains a police force by that police force. In all other instances, the State Police or the Department of Safety and Homeland Security (hereinafter "Department") shall enforce this chapter, except that, in New Castle County, the New Castle County Police shall have concurrent authority to enforce this chapter. New Castle County Code Enforcement Constables shall have concurrent authority to enforce the notice provisions of subsections (d) and (e) of this section. The Department of Transportation shall have a limited role in causing vehicles to be removed from state or public highways, as stated herein.

(b) Upon the discovery of a vehicle on any state or public highway or property or the property or roads of any political subdivision or state or public highways within a municipality or upon any express highway in the State concerning which vehicle there are reasonable grounds to believe to be an abandoned vehicle, the State Police, county police or municipal police, as the case may be, shall post a notice at some conspicuous place on the vehicle, which shall direct that such vehicle be removed by a stated time and date (such time and date to be not less than 12 hours following the posting of such notice). If the vehicle is not removed within the time period designated by such notice, the abandoned vehicle shall be removed to a storage area designated by the Department or the State Police or its successor.

(c) In the event that a vehicle is abandoned on private property without the consent of the owner or occupant thereof, at the complaint of the property owner or occupant, such vehicle may be caused to be removed by the State Police, county police or municipal police, as the case may be, in the manner provided in this chapter, except that the posting required in subsection (b) of this section may be omitted. Any towing company or vendor requested to remove an abandoned vehicle under these circumstances shall be provided by the involved police agency the best available information regarding ownership of the vehicle and last known address of the owner.

(d) If an abandoned vehicle is on private property with the consent of the owner or occupant thereof, of if an abandoned vehicle is owned by the owner or occupant of the private property where the vehicle is located, representatives of the Department or State Police may enter upon the property where such vehicle is located to ascertain its ownership. The Department shall notify the owner of the abandoned vehicle by certified mail sent to the owner's last known address to remove such vehicle within 7 days from the date of the mailing. If the vehicle is not removed within 7 days or if the owner cannot be located for the purpose of sending the written notice, then representatives of the Department or State Police may enter upon the property where the vehicle is located and conspicuously affix thereto a sticker or tag showing the time and date of its affixing, advising the owner that if the vehicle is not removed within 24 hours from the time of the affixing

of the sticker, the vehicle shall be removed to a storage area designated by the Department or the State Police. This subsection shall not apply to automobile graveyards as defined in § 1202(b)(2) of Title 17 nor to any vehicle on private property which is not visible from the street or road and is not otherwise a nuisance or a health or fire hazard.

(e) The notice required by subsections (b) and (d) of this section shall state that, if such vehicle is not so removed, it will be removed and stored at a storage area designated by the Department or the State Police at the owner's expense, and thereafter will be subject to disposal in accordance with law. Such notice shall also set forth verbatim § 4414 of this title. If the vehicle shall not have been removed by the time and date specified in the notice, the police officer or agents or employees of the Department or State Police shall take such vehicle into custody and shall cause it to be removed and stored for safekeeping in the storage area designated by the Department or the State Police. The officer shall promptly notify the Secretary of Safety and Homeland Security, upon a form to be supplied by the Secretary for that purpose, of the action which has been taken with respect to such vehicle.

(f) This chapter shall not apply to any removal of a vehicle unless the removal is directed by the appropriate police authority or the Department or State Police or its successor.

(g) Any person who possesses or on whose property any abandoned vehicle or motor vehicle is found or who owns a vehicle or motor vehicle for which the certificate of title is lost or destroyed and such vehicle or motor vehicle is more than 8 years old and has no engine or is otherwise totally inoperable, may transfer the vehicle or motor vehicle to a licensed automotive recycler without the certificate of title on forms furnished by the Department. In such cases, the licensed automotive recycler may take the vehicle or motor vehicle in that person's possession and shall immediately obtain from the Division of Motor Vehicles the name and address of the last known owner of the vehicle or motor vehicle or secured party. The licensed automotive recycler shall give at least 10 days' notice to the owner or secured party by certified mail, return receipt requested. If the vehicle is not reclaimed within the 10-day period specified in the notice, the licensed automotive recycler assumes unencumbered title to the vehicle.

If the name and address of the owner or secured party cannot be obtained from the records of the Division of Motor Vehicles or by exercising reasonable diligence, the licensed automotive recycler assumes unencumbered title after the vehicle or motor vehicle has been in the recycler's possession for 30 days.

Notice of assumption of ownership shall be made to the Division of Motor Vehicles on forms devised by the Division.

(h) In the event that a vehicle is abandoned or parked within a private right-of-way, alleyway or easement in such a manner as to impede the flow of traffic, at the complaint of any property owner or occupant or other person with a right-of-passage across the private right-of-way, alleyway or easement, such vehicle may be caused to be removed by the State Police, county police or municipal police, as the case may be, in the manner provided in this chapter, except that the posting required in subsection (b) of this section may be omitted and that the provisions of this chapter shall be applied to said parked vehicle as if it were an abandoned vehicle.

(21 Del. C. 1953 § 4402; 55 Del. Laws, c. 173; 56 Del. Laws, c. 153; 57 Del. Laws, c. 670 § 16A; 57 Del. Laws, c. 713 §§ 2-5; 58 Del. Laws, c. 119 §§ 1-4; 63 Del. Laws, c. 265 § 1; 63 Del. Laws, c. 421 § 1; 65 Del. Laws, c. 318 § 5; 66 Del. Laws, c. 236 §§ 1-3; 67 Del. Laws, c. 249 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 60 §§ 4, 5; 74 Del. Laws, c. 110 §§ 91, 92; 75 Del. Laws, c. 333 § 1; 78 Del. Laws, c. 124 § 1.)

## § 4403 Notice of removal.

The police or the Department of Safety and Homeland Security causing the removal of an abandoned vehicle shall immediately ascertain the identity of any person or persons holding a lien against said vehicle. Within 5 days of the removal of the vehicle, the State Police, other police agencies, New Castle County Code Enforcement Constables or the Department shall cause a written notice to be mailed to the registered owner of the vehicle removed and lien holders stating:

(1) That the vehicle has been removed pursuant to law;

(2) The place to which it has been removed; and

(3) That the vehicle may be sold to satisfy the costs of removal and storage of the vehicle as provided in § 4404 of this title unless those costs have been paid in full on or before 30 days from the date of the removal of the vehicle.

If the address of the owner of the vehicle cannot be ascertained by the exercise of reasonable diligence, then the notice provided by this section shall not be required to be given.

(21 Del. C. 1953 § 4403; 55 Del. Laws, c. 173; 58 Del. Laws, c. 119 § 5; 66 Del. Laws, c. 236 § 4; 74 Del. Laws, c. 110 § 93; 75 Del. Laws, c. 333 § 2.)

## § 4404 Sale of abandoned vehicles; disposition of proceeds.

The Department of Safety and Homeland Security shall have a possessory lien against said abandoned vehicles and shall have a right to sell said abandoned vehicles after complying with the notice and sale provisions as outlined in Chapter 39 of Title 25, with the exception that the proceeds of the sale shall be applied first to the costs of the sale, then to the costs of removing, towing, preserving and storing and then to the payment of any liens to which said motor vehicle, trailer or part thereof may be subject in order of their priority, then to the State Treasurer who shall create a special fund thereof and who shall pay to the owner the moneys held if a claim is made within 1 year of the removal or deposit the moneys in the General Fund if no claim is made within 1 year of the removal.

(21 Del. C. 1953 § 4404; 55 Del. Laws, c. 173; 57 Del. Laws, c. 670 § 16B; 57 Del. Laws, c. 713 § 6; 61 Del. Laws, c. 367 § 2; 74 Del. Laws, c. 110 § 94.)

## § 4405 Sale as barring claims or interests.

Upon the sale of a vehicle pursuant to this chapter, all claims or interest therein shall be forever barred.

(21 Del. C. 1953 § 4405; 55 Del. Laws, c. 173.)

## § 4406 Issuance of certificate of title.

The Secretary of Transportation shall issue a certificate of title to the purchaser of a vehicle sold pursuant to this chapter.

(21 Del. C. 1953 § 4406; 55 Del. Laws, c. 173; 57 Del. Laws, c. 670 § 16B; 74 Del. Laws, c. 110 § 95.)

## § 4407 Secretary of Public Safety; rules and regulations.

The Secretary of Public Safety may make and promulgate rules and regulations to implement this chapter.

(21 Del. C. 1953 § 4407; 55 Del. Laws, c. 173; 57 Del. Laws, c. 670 § 16A.)

## § 4408 Immunity of police officers, Department of Safety and Homeland Security employees and garage persons towing or storing vehicles.

No law-enforcement officer or agent or employee of the Department of Safety and Homeland Security, Department of Transportation, State Police or other legally authorized police agency or New Castle County Code Enforcement Constable acting under this chapter and no one who tows or stores a vehicle as a result of being directed to do so shall be liable to criminal prosecution arising from such action or be liable to any person for the injury, loss or destruction of any real or personal property which occurs in the course of the removal or storage of any vehicle taken into custody under this chapter.

(21 Del. C. 1953 § 4408; 55 Del. Laws, c. 173; 58 Del. Laws, c. 119 § 6; 66 Del. Laws, c. 236 § 5; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 96; 75 Del. Laws, c. 333 § 3.)

## § 4409 Rights and authority granted to be in addition to other rights and authority.

The rights and authority conferred by this chapter shall be in addition to, and not in lieu of, any other rights or authority possessed by any public officer or property owner with respect to abandoned vehicles.

(21 Del. C. 1953 § 4409; 55 Del. Laws, c. 173.)

## § 4410 Wreckers; removal; licenses; records; contract.

(a) A wrecker, licensed by the Department of Safety and Homeland Security (hereinafter "Department") or its successor upon the procurement from the Department of the license with the appropriate decal affixed thereto, shall be the responsible party for implementing the removal provisions of this chapter. The owner of the wrecker shall be responsible for removing only those vehicles as are specifically designated by complete description and serial number. The owner shall keep adequate records and furnish the Department with a monthly report.

(b) The Department of Safety and Homeland Security and wrecker owner shall enter into a contract providing for the removal of vehicles, but the Department of Safety and Homeland Security shall make the determination of the number of cars to be removed by the wrecker within an 8-hour work day with no removal permitted on Sunday.

(21 Del. C. 1953 § 4410; 57 Del. Laws, c. 713 § 8; 66 Del. Laws, c. 236 § 6; 74 Del. Laws, c. 110 §§ 97, 98.)

## § 4411 Storage area for abandoned vehicles.

The Department of Safety and Homeland Security or State Police shall designate the area or areas in each county which shall be used for the storage of abandoned vehicles.

(21 Del. C. 1953 § 4411; 57 Del. Laws, c. 713 § 9; 58 Del. Laws, c. 119 § 7; 66 Del. Laws, c. 236 § 7; 74 Del. Laws, c. 110 § 99.)

## § 4412 Vehicles left in possession of garage and/or service station; limitations.

Any vehicle left in the possession of a garage or service station which is in operation as a going business shall not be considered for purposes of this chapter an abandoned vehicle, even though the vehicle left in possession of the garage or service station is inoperable or partially or fully dismantled. No garage or service station owner shall maintain more than 5 such vehicles within a 6-month period, unless the owner complies with § 1206 of Title 17, relating to screening of junkyards.

(21 Del. C. 1953 § 4412; 57 Del. Laws, c. 713 § 10; 70 Del. Laws, c. 186 § 1.)

## § 4413 Antique cars or parts thereof; exception.

Anyone maintaining an inventory of antique cars or parts thereof shall not be subject to this chapter, provided the antique cars or parts thereof are housed in a building consisting of 4 sides and a roof and are not visible from the highway or road from any location.

(21 Del. C. 1953 § 4413; 57 Del. Laws, c. 713 § 11.)

## § 4414 Penalty; prima facie evidence of wilful abandonment; jurisdiction.

(a) Any person who wilfully abandons a vehicle within the right-of-way of any highway of this State or upon the property of another without consent, and any person who, being the owner of an abandoned vehicle, wilfully fails to remove it pursuant to a directive given under § 4402(b) of this title shall be fined not less than $28.75 nor more than $115.

(b) For the purposes of this section, the fact that a person voluntarily left a vehicle and did not return to remove it within 7 consecutive

days shall be prima facie evidence of the wilful abandonment of such vehicle.

(c) Justices of the peace shall have jurisdiction for purposes of this section.

(21 Del. C. 1953 § 4414; 55 Del. Laws, c. 173; 57 Del. Laws, c. 713 § 7; 58 Del. Laws, c. 119 § 8; 66 Del. Laws, c. 14 § 3; 68 Del. Laws, c. 9 § 51; 70 Del. Laws, c. 186 § 1.)

## § 4415 Disposal of vehicles 8 years of age or older by wrecker owners.

(a) This section applies to motor vehicles whose model year age is 8 years of age or older on the date of towing.

(b) Any wrecker owner is vested with a lien as defined in § 3901 of Title 25 upon taking possession of any motor vehicle described in subsection (a) of this section.

(c) The wrecker owner in possession of a motor vehicle and requesting a Delaware certificate of title shall contact the Delaware Division of Motor Vehicles to determine the owner(s) of any vehicle with undetermined ownership within 5 calendar days of towing the vehicle.

(d) The owner and all secured parties shall be notified by the wrecker owner within 10 days of the wrecker owner's receipt of information from the Division of Motor Vehicles. This notification must be by registered mail or certified mail.

(e) The owner and all secured parties shall either satisfy the lien or respond to the notification within 5 calendar days from receipt of said notification. This response shall include either a signed release of interest in the vehicle pursuant to § 3904 of Title 25 or a signed letter contesting the disposal.

(1) If the owner and/or any secured party contests the lien or the disposal, the person may contest the lien or the disposal to the closest Justice of the Peace Court to the address of the wrecker owner.

(2) If the owner and/or secured party does not reply within 5 days from the receipt of said notification, the wrecker owner may proceed to sell according to § 3903 of Title 25.

(f) The wrecker owner shall have the vehicle inspected by the Delaware State Police Auto Theft Unit between the date the vehicle is towed and the thirtieth day following that date.

(g) If the unit is released by the registered owner and all secured parties, the wrecker owner may proceed to transfer the vehicle without having to comply with Chapter 39 of Title 25. This transfer shall be made to a salvage yard without a certificate of title, but shall be made on forms furnished by the Department of Safety and Homeland Security.

(h) If the model year of the unit cannot be determined, then it will not be subject to this section.

(i) If the name and address of the owner or secured party is not recorded with the Division of Motor Vehicles, the wrecker owner assumes unencumbered title after the vehicle has been in the wrecker owner's possession for 30 days. Any transfer shall be made to a salvage yard without a certificate of title but shall be made on forms furnished by the Department of Safety and Homeland Security.

(j) Any wrecker owner may transfer a vehicle described in subsection (a) of this section directly to a licensed automotive recycler when said vehicle has been in the wrecker owner's possession for 30 days, without owner notification, only after the vehicle has been inspected by the State Police Auto Theft Unit and upon receipt of a Certificate Of Authority To Dispose Of A Towed Vehicle Form issued by the Department. A wrecker owner shall be issued a Certificate Of Authority To Dispose Of A Towed Vehicle Form when the wrecker owner submits to the Department the approved application form:

(1) Along with the State Police Vehicle Inspection Report and a copy of the corresponding Police Tow Form; or

(2) When the vehicle has been towed from private property, along with other documentary evidence of the right to the possession, containing description of vehicle, date towed, location towed from and person authorizing the towing.

(k) Any wrecker owner who violates this section shall, for the first offense, be fined not less than $25 nor more than $50 for each vehicle violation. For each subsequent life offense within 1 year the wrecker owner shall be fined not less than $50 nor more than $100 for each vehicle violation.

(l) The last known registered owner of an abandoned vehicle is considered to be the prima facie owner of the vehicle at the time it was abandoned and to be the person who abandoned it.

(65 Del. Laws, c. 363 § 1; 66 Del. Laws, c. 14 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 138.)

## § 4416 Vehicles left or abandoned on public highways.

Any other provision of this chapter notwithstanding, in the event a motor vehicle is left unattended within the right-of-way of a "public highway" or state highway, or any state-maintained street, road or bridge and is determined to be a safety hazard within the discretion of the Department of Safety and Homeland Security, the Department of Transportation, the State Police or any authorized police agency, said vehicle shall be towed to a storage area designated by the Department of Safety and Homeland Security and the provisions of this chapter shall apply.

(66 Del. Laws, c. 236 § 8; 74 Del. Laws, c. 110 § 100.)

# Part III
# Operation and Equipment
# Chapter 45
# SIZE AND WEIGHT OF VEHICLES AND LOADS

## § 4501 Size and weight of vehicles generally.

(a) No person shall drive or move, or, being the owner, cause or knowingly permit to be driven or moved on any highway, any vehicle or combination of vehicles:

(1) Having a size or weight exceeding the limitations stated in this chapter; or

(2) Having a gross weight exceeding that for which it is lawfully registered; or

(3) In violation of any provision of this title; or

(4) Having a gross weight exceeding that for which it could have been registered in this State if it is registered for a greater weight in another state, unless a reciprocity agreement between the 2 states is in effect; or

(5) In violation of the rules or regulations of the Secretary of Safety and Homeland Security adopted pursuant to this title or this chapter; or

(6) Special mobile equipment.

(b) For purposes of this chapter, any combination of trucks, truck trailers, trailers and semitrailers, not specifically authorized herein, shall be unlawful. The following are authorized:

(1) A truck and trailer.

(2) A truck tractor, semitrailer.

(3) A truck tractor, semitrailer, trailer.

(4) A vehicle string utilizing saddlemount and/or fullmount.

(5) A tow truck and a disabled vehicle or combination of vehicles.

(c) Except as otherwise provided herein, this chapter applies to every vehicle operated upon any road, street or highway within this State. The maximum size and weight of vehicles specified herein by type of highway shall be lawful throughout this State and local authorities may not alter such limitations, except as expressly provided in this chapter.

(d) Any gross weight measurements made to determine compliance with this chapter shall be taken so as to include both the vehicle and load. Any vehicle having a gross weight in excess of that allowable under this chapter or in excess of that for which it is currently registered shall be considered as an "overweight vehicle."

(e) Any linear measurements taken to determine compliance with this chapter shall be taken so as to include the vehicle and any load thereon including any projections of any type, character or nature whatsoever, such as, but not limited to, bumpers, steps, mirrors and hose connections specifically excluding the tongue of a trailer.

(f) Except as otherwise provided in this chapter, it shall be unlawful to operate any vehicle at a gross weight which exceeds the weight for which it is registered and provided further that:

(1) Except as otherwise provided in this paragraph, the total gross weight including load, of a combination of a truck tractor and semitrailer having a total of 5 or more axles shall not exceed 80,000 pounds. For a live-haul poultry truck traveling less than 150 miles from the farm to the plant, the total gross weight including load of a combination of a truck tractor and semitrailer having a total of 5 or more axles shall not exceed 90,000 pounds. However, such a live-haul poultry truck may exceed the established weight limit by no more than 3% to account for variations in bird weight due to bird size, moisture retention caused by precipitation, or other unanticipated conditions. For the 90,000 pound weight limit and associated 3% variance to apply to a live-haul poultry truck, the following conditions must exist:

a. The live-haul poultry truck must be subject to the Motor Carrier Safety Assistance Program (MCSAP) inspection.

b. The live-haul poultry truck must adhere to all bridge weight limits.

c. The live-haul poultry truck must not use the interstate highway system.

d. The axels on a live-haul poultry truck must be a minimum of 96 inches apart no later than May 8, 2015.

(2) The gross weight of a vehicle equipped with 2 or more axles without power brakes on each rear hub shall not exceed 22,000 pounds and it shall be unlawful to operate such vehicle in excess of 20 miles per hour.

(3) The gross weight of a trailer equipped with metal tires shall not exceed 6,000 pounds.

(4) Any vehicle, otherwise required to be registered pursuant to this title which is not registered and which requires a registration fee that is calculated upon gross weight, shall be assigned a weight allowance equal to the highest legal weight for which that vehicle could be registered for the purpose of enforcement of the weight section of this title.

(g) Except as otherwise provided in this chapter, it shall be unlawful to operate any vehicle in this State in violation of length, height or size restrictions provided in this title and provided further that:

(1) No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending

more than 6 inches beyond the line of the fender on the right side thereof.

(2) The load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than 3 feet beyond the foremost part of the vehicle; and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than 6 feet beyond the rear of the bed or body of such vehicle. Pilings and/or poles or mill logs, or nursery stock, or rowing shells, or steel beams, pipes, angles, channels and other length or steel, or other metal, or other articles impossible of dismemberment shall not extend more than 10 feet beyond the rear of the bed or body of such vehicle.

(3) A number of motor vehicles may be transported in combination, utilizing saddlemount and/or fullmount mechanisms and utilizing the motive power of 1 of the vehicles in combination, provided such combination of vehicles shall not exceed a length of 65 feet, and provided further that the equipment used in such combinations shall comply with the safety regulations of the United States Department of Transportation.

(4) Except as otherwise indicated herein, the limitations as to length of load stated in this chapter shall not apply to a vehicle or combination of vehicles transporting boats, commonly known as crew or rowing shells for use in interscholastic or intercollegiate rowing contests, provided that such boats shall not exceed 70 feet in length.

(5) Neither the State, any agency or subdivision thereof, nor any person, firm or corporation shall be required to raise, alter, construct or reconstruct any underpass, wire, pole, trestle or other structure to permit passage of any vehicle having a height, including any load thereon, in excess of 12 feet 6 inches. The liability for damage to any person, vehicle, structure or other property caused by any vehicle having a height, including any load thereon, in excess of 12 feet 6 inches shall be borne by the owner and/or the operator of the vehicle.

(h) The provisions of § 4502 of this title do not apply to the following vehicles; provided, however, that the liability for damages caused by any vehicle operated under this provision shall be borne by the owner of said vehicle:

(1) Fire apparatus owned or used by an organized fire company.

(2) Farm equipment being temporarily operated, moved or transported on a highway.

(3) A vehicle being towed with 1 set of axles free of the roadway surface.

(i) Any vehicle or combination of vehicles, otherwise not in compliance with this chapter, but permitted to be operated within this State by virtue of a special use permit pursuant to this chapter, shall be permitted to travel on such highways as shall be designated within the contents of said permit.

(36 Del. Laws, c. 10 §§ 114, 117; 37 Del. Laws, c. 10 §§ 29-31; 40 Del. Laws, c. 38 § 11; Code 1935 §§ 5652, 5655; 46 Del. Laws, c. 86 § 2; 47 Del. Laws, c. 114; 21 Del. C. 1953 §§ 4501, 4503; 50 Del. Laws, c. 633 § 1; 52 Del. Laws, c. 40; 53 Del. Laws, c. 395 §§ 1, 2; 56 Del. Laws, c. 18 §§ 1, 2; 57 Del. Laws, c. 670 § 24A; 58 Del. Laws, c. 384 §§ 1, 6; 60 Del. Laws, c. 54 §§ 1, 2; 60 Del. Laws, c. 264 § 1; 60 Del. Laws, c. 409 §§ 2-5; 62 Del. Laws, c. 5 §§ 1-4; 64 Del. Laws, c. 207 § 5; 64 Del. Laws, c. 259 § 3; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 259 § 6; 74 Del. Laws, c. 110 § 101; 79 Del. Laws, c. 220 § 1.)

## § 4502 Size and weight of vehicles except on interstate highways and United States numbered routes.

(a) Except as provided in § 4503 of this title, this section sets forth the size and weight restrictions applicable to all roads, streets and highways within this State.

(b)(1) No vehicles, including any load thereon, shall exceed a total outside width of 8 feet 6 inches.

(2) No vehicles, including any load thereon, shall exceed a height of 13 feet 6 inches.

(3) No single motor vehicle, including any load thereon, shall exceed 40 feet in length, and no combination of vehicles, including the load thereon, shall exceed 60 feet in length, except as otherwise provided in this section.

a. A truck and semitrailer combination engaged in the transportation of motor vehicles shall not exceed a length of 65 feet exclusive of the overhang of the transported vehicles.

b. Buses shall not exceed 45 feet in length.

c. Piling and pole trailers and vehicles or combinations or vehicles engaged in the transportation of steel beams, pipes, angles channels and other lengths of steel, or other metals, or other articles impossible of dismemberment shall not exceed 70 feet.

(4) Notwithstanding paragraph (b)(1) or (3) of this section:

a. No recreational vehicle, including any load or truck camper thereon or any camping trailer, recreational trailer or park trailer attached thereto, shall exceed a total outside width of 102 inches, exclusive of any safety equipment, which shall not extend beyond the federal motor vehicle safety standards for such equipment, or appurtenances such as awnings and lights which are integral to the construction of the vehicle, installed by the vehicle's manufacturer or dealer, and do not extend more than 6 inches wider on each side of the vehicle; provided however, that such vehicles permissibly exceeding the 102 inch width limit with its attached equipment or appurtenances shall only be operated:

1. On roadways having travel lanes at least 11 feet in width, unless prohibited by the Department of Transportation or by a municipality based on safety reasons and marked with signs prohibiting such vehicles; or

2. On any roadway of the State when such a vehicle is being operated between a roadway permitted under paragraph (b)(4)a.1. of this section and:

A. The location where the recreational vehicle, recreational trailer, park trailer, camping trailer or truck camper is garaged; or

B. The destination of the recreational vehicle, recreational trailer, park trailer, camping trailer or truck camper; or

C. A facility for food, fuel, repair, services or rest.

b. No single recreational vehicle, including any load or truck camper thereon, shall exceed 45 feet in length; and

c. No combination of a recreational vehicle with any vehicle, including the load thereon, nor any combination of any motor vehicle with any camping trailer, recreational trailer or park trailer attached thereto, shall exceed 65 feet in length.

(c)(1) A vehicle equipped with 2 axles, having each of the 2 axles equipped with 2 hubs, with a power brake on each hub, shall not exceed a total gross weight of 40,000 pounds or manufacturer's gross vehicle weight rating whichever is less.

(2) A vehicle equipped with 3 axles, having each of the 3 axles equipped with 2 hubs, with a power brake on each hub, shall not exceed a total gross weight of 65,000 lbs. or the manufacturer's gross vehicle weight rating, whichever is less; notwithstanding the above, and as limited in § 2105 of this title, it shall be lawful to operate such a vehicle to and from any construction site located in this State when the total gross weight does not exceed 70,000 lbs.; and it shall also be lawful to operate such a vehicle containing agricultural products when the gross weight, including vehicle and load, does not exceed 70,000 lbs.; provided that vehicles utilizing the above exception shall pay a fee of $100 per vehicle at the time of registration for this extra weight capacity.

(3) A vehicle equipped with 4 axles, having each of the rear axles equipped with 2 hubs, with a power brake on each rear hub, shall not exceed a total gross weight of 73,280 pounds or manufacturer's gross vehicle weight rating whichever is less.

(4) The total gross weight of a combination tractor and semitrailer having a total of 3 axles shall not exceed 60,000 lbs. or combined manufacturer's gross vehicle weight rating whichever is less.

(5) The total gross weight of a combination tractor and semitrailer having a total of 4 axles shall not exceed 70,000 lbs. or combined manufacturer's gross vehicle weight rating whichever is less.

(6) Except as otherwise provided in this paragraph, the total gross weight of a combination tractor and semitrailer having a total of 5 or more axles shall not exceed 80,000 lbs. or combined manufacturer's gross vehicle weight rating whichever is less. For a live-haul poultry truck traveling less than 150 miles from the farm to the plant, the total gross weight including load of a combination of a truck tractor and semitrailer having a total of 5 or more axles shall not exceed 90,000 pounds. However, such a live-haul poultry truck may exceed the established weight limit by no more than 3 percent to account for variations in bird weight due to bird size, moisture retention caused by precipitation, or other unanticipated conditions. For the 90,000 pound weight limit and associated 3 percent variance to apply to a live-haul poultry truck, the following conditions must exist:

a. The live-haul poultry truck must be subject to the Motor Carrier Safety Assistance Program (MCSAP) inspection.

b. The live-haul poultry truck must adhere to all bridge weight limits.

c. The live-haul poultry truck must not use the interstate highway system.

d. The axels on a live-haul poultry truck must be a minimum of 96 inches apart no later than May 8, 2015.

(7) Except as otherwise provided herein, for single unit vehicles, no axle load shall exceed 22,400 pounds. With respect to any single unit vehicle, the maximum gross weight between any 3 consecutive axles that actually bear weight upon the pavement, and which have wheels spaced between 144 inches and not less than 60 inches apart when measured horizontally between their center lines, shall not exceed 60,000 lbs. With respect to any single unit vehicle, the maximum gross weight between any 2 consecutive axles that actually bear weight upon the pavement, and which have wheels spaced between 96 inches and not less than 40 inches apart when measured horizontally between their center lines, shall not exceed 40,000 pounds. With respect to any single unit vehicle, the maximum combined gross weight between any 2 consecutive axles that actually bear weight upon the pavement, and are less than 40 inches apart when measured horizontally between the center lines, shall not exceed 20,000 pounds. Where the distance between consecutive axle centers exceeds 96 inches, the weight for each such axle shall not exceed 22,400 pounds.

(8) Except as otherwise provided herein, for combination unit vehicles, no axle load shall exceed 22,400 pounds. With respect to any combination unit vehicle, the maximum gross weight between any 2 consecutive axles that actually bear weight upon the pavement and which have wheels spaced between 96 inches and not less than 40 inches apart, measured horizontally between their center lines, shall not exceed 36,000 pounds. Where the distance between consecutive axle centers exceeds 96 inches, the weight for each such axle shall not exceed 22,400 pounds. With respect to any combination vehicle, the maximum combined gross weight between any 2 consecutive axles that actually bear weight upon the pavement, and are less than 40 inches apart when measured horizontally between the center lines, shall not exceed 20,000 pounds.

(9) Farm operations. — Notwithstanding the other provisions of this section, the following applies to vehicles registered as (i) farm trucks or (ii) registered commercial motor vehicles are controlled or operated by a farmer and while used in the operation of a farm. For these vehicles, no single axle load shall exceed 22,400 pounds, and with respect to any vehicle equipped with coupled axles spaced less than 48 inches apart measured horizontally between their center lines, the combined weight on the coupled axles shall not exceed 20,000 pounds and, with respect to a vehicle equipped with coupled axles spaced 48 inches or more apart measured horizontally between their center lines, the combined weight on the coupled axle shall not exceed 40,000 pounds. Furthermore, any farm loaded truck or farm vehicle carrying harvested products or livestock may exceed the weight limits established under this subsection by no more than 3 percent.

(10) Whenever the total gross weight permitted in any provisions of this section exceeds the total gross weight permitted as calculated pursuant to paragraph (c)(7) of this section, paragraph (c)(7) of this section shall be void.

(d) The Secretary of the Delaware Department of Transportation may, on the basis of engineering and/or traffic investigations, determine that any road, street, or highway under the jurisdiction of the Department of Transportation is not of sufficient width to accommodate

vehicles otherwise permitted by this section and may thereafter prohibit vehicles of an otherwise permissible width from operation on such road, street or highway.

(64 Del. Laws, c. 207 § 5; 69 Del. Laws, c. 73 § 2; 70 Del. Laws, c. 169 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 259 § 3; 74 Del. Laws, c. 133 § 1; 76 Del. Laws, c. 305 § 1; 77 Del. Laws, c. 67 § 1; 77 Del. Laws, c. 244 § 3; 77 Del. Laws, c. 316 §§ 2, 3; 79 Del. Laws, c. 220 § 2.)

## § 4503 Size and weight of vehicles on interstate highways; size of vehicles on United States numbered routes.

(a) No person shall drive or move or, being the owner, cause or knowingly permit to be driven or moved on any interstate highway or United States numbered route, unless otherwise posted, any vehicle or combination of vehicles having a size or weight in excess of that permitted by this section. Provided, however, that such weight limitations and restrictions listed in this section apply only to the interstate highway; weight limitations and restrictions for United States numbered routes shall be as listed in § 4502 of this title.

(b)(1) No vehicle, including any load thereon, shall exceed a height of 13 feet, 6 inches.

(2) The maximum length of a semitrailer, including any load thereon, exclusive of truck tractor size shall be 53 feet.

(3) The maximum length of a trailer or semitrailer in a truck tractor-semitrailer-trailer combination, including any load thereon, exclusive of tractor size shall be 29 feet.

(4) Buses shall not exceed 45 feet in length.

(5) Single vehicles including the load thereon shall not exceed 40 feet in length.

(6) No vehicle including any load thereon shall exceed a total outside width of 102 inches, exclusive of safety equipment, which shall not extend more than 3 inches wider on each side of the vehicle, or as shall be authorized by the Delaware Secretary of Public Safety.

(7) Notwithstanding paragraph (b)(5) or (6) of this section:

a. No recreational vehicle, including any load or truck camper thereon or any camping trailer, recreational trailer or park trailer attached thereto, shall exceed a total outside width of 102 inches, exclusive of any safety equipment, which shall not extend beyond the federal motor vehicle safety standards for such equipment, or appurtenances such as awnings and lights which are integral to the construction of the vehicle, installed by the vehicle's manufacturer or dealer, and do not extend more than 6 inches wider on each side of the vehicle;

b. No single recreational vehicle, including any load or truck camper thereon, shall exceed 45 feet in length; and

c. No combination of a recreational vehicle with any vehicle, including the load thereon, nor any combination of any motor vehicle with any camping trailer, recreational trailer or park trailer attached thereto, shall exceed 65 feet in length.

(c)(1) Each weight stated in this section shall apply only to interstate highways and is a total gross weight which includes the weight of the vehicle, including load thereon and any enforcement tolerance applicable thereto.

(2) It shall be unlawful for the gross weight on any 1 axle to exceed 20,000 pounds.

(3) It shall be unlawful for the gross weight on any tandem or coupled axles to exceed 34,000 pounds.

(4) It shall be unlawful for the maximum gross weight for any vehicle to exceed the sum of the allowed axle weight for the number of axles actually bearing their full share of the weight upon the pavement or the smallest weight as calculated hereunder:

a. The gross weight of any vehicle or combination of vehicles shall not exceed the weights stated hereunder:

2 axles — 40,000 lbs.
3 axles — 54,000 lbs.
4 axles — 74,000 lbs.
5 axles — 80,000 lbs.

b. The maximum gross weight of any vehicle or combination of vehicles on a group of 2 or more consecutive axles shall not exceed the weight as calculated by this formula:

$$W = 500 (LN/N-1 + 12N + 36)$$

For purposes of this subsection, W equals overall gross weight on any group of 2 or more consecutive axles to the nearest 500 pounds, L equals the distance in feet between the extreme of any group of 2 or more consecutive axles, and N equals the number of axles in the group under consideration except that 2 consecutive sets of tandem axles may carry a gross load of 34,000 pounds each, whenever the overall distance between the first and last axle of the consecutive sets is 36 feet or more.

(d) The Delaware Secretary of Transportation may, on the basis of engineering and traffic investigations, determine that certain interstate and United States numbered routes cannot accommodate vehicles, otherwise permitted under this section, and may thereafter prohibit operation of such vehicles on the interstate and United States numbered routes so designated.

(e) The provisions of this section do not apply to the following vehicles when such vehicles are being operated on interstate highways and United States numbered routes; provided, however, that the liability for damages caused by any vehicle operated under this provision shall be borne by the owner of said vehicle:

(1) Fire apparatus owned or used by an organized fire company.

(2) Farm equipment being temporarily operated, moved or transported on a highway. This provision only applies to farmers engaged in their agricultural related practices.

(f) Any vehicle subject to this subpart that utilizes an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling, may be allowed up to an additional 400 lbs. total in gross, axle, tandem, or bridge formula

weight limits.

(1) To be eligible for this exception, the operator of the vehicle must be able to prove:

a. By written certification, the weight of the APU; and

b. By demonstration or certification, that the idle reduction technology is fully functional.

(2) Certification of the weight of the APU must be available to law-enforcement officers if the vehicle is found in violation of applicable weight laws. The additional weight allowed cannot exceed 400 lbs. or the weight certified, whichever is less.

(64 Del. Laws, c. 207 § 5; 67 Del. Laws, c. 345 §§ 1, 2; 68 Del. Laws, c. 281 § 1; 69 Del. Laws, c. 73 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 259 §§ 1, 2; 74 Del. Laws, c. 133 § 2; 77 Del. Laws, c. 124 § 1.)

## § 4504 Regulations; fees; permits for excessive size and weights.

(a) The Secretary of Transportation may adopt such regulations, issue permits and may impose such fees as the Secretary may deem reasonable to implement the requirements of this chapter. The fee for permits issued pursuant to paragraph (c)(1) of this section for vehicles operating on any interstate highway within this State shall be $1.00 per single trip permit.

(b)(1) The Secretary of Transportation is hereby authorized to adopt rules and regulations, to establish and set fees and to adopt procedures for the issuance of permits for the movement of vehicles and/or loads of a size and weight exceeding the maximum specified in this chapter.

(2) Local authorities may adopt regulations under which permits may be granted for the movement of vehicles and/or loads of a size and weight exceeding the maximum specified in this chapter over any highway for which the local authority has the sole maintenance responsibility.

(3) Every permit granted shall be in writing and shall contain a description of the vehicle and load, a statement of the fee levied and the name of the authorized officer of the granting authority. It may designate the route and certain restrictions, rules, conditions and regulations as deemed necessary.

(4) Permits may be obtained only for vehicles or trailers complying with this title.

(5) A permit obtained pursuant to this section shall relieve no person of the obligation to comply with all laws, rules and regulations otherwise applicable.

(c)(1) Single trip permits shall be issued for single trips from the designated starting point to the designated terminal point. Intermediate stopping points and round trips are not permitted.

(2) Multi-trip permits shall be issued for the period from the first day of the month to the first day of the following month. Each permit shall be valid as authorized herein; it shall not be transferable.

a. Utility companies may be issued a permit for piling and pole trailers. Each permit may be valid for up to 4 trailers at the time of issue.

b. Utility companies and governmental agencies may be issued a permit for a manned and/or unmanned aerial type single motor vehicle up to 50 feet long. Each permit shall be valid for an individual vehicle only.

c. Pole and piling haulers may be issued a permit for piling and pole movements. Each permit shall be valid for an individual tractor only.

d. A specific route permit may be issued to owners or renters of double-bottom vehicles weighing not more than 80,000 lbs. with a width of not more than 102 inches. Each permit shall be for a single route between 2 specific points. Such permit shall not be vehicle specific; it is route specific.

e. Permits shall not be issued under paragraph (c)(2)d. of this section for any route which has a posted speed limit over 30 m.p.h. and has travel lanes less than 11 feet wide as measured from face of curb or edge of travelway.

f. Multi-trip permits shall not be issued for any purpose not specifically authorized in paragraph (c)(2)a., b., c. or d. of this section.

g., h. [Deleted.]

(d) Notwithstanding any provision or regulation to the contrary, all operators of self-propelled cranes, as defined in § 101 of this title, shall be allowed to apply for and receive a 1-year blanket permit allowing unlimited moves of said self-propelled crane. These blanket permits can be renewed each year. For purposes of this subsection, a "blanket permit" is an unlimited movement permit for each self-propelled crane owned by an applicant. Said permit shall be issued per the rules and regulations adopted by the Department of Transportation.

(e)(1) Every permit shall be carried in the vehicle to which it refers during the movement it authorizes and it shall be open to inspection by any police officer.

(2) Copies of multi-trip permits issued to utility companies may be carried by their vehicles in lieu of the original.

(3) Copies of multi-trip permits issued for bus operation may be carried in the buses in lieu of the original.

(4) Copies of multi-trip permits issued for the movement of double-bottom vehicles may be carried in the vehicle in lieu of the original or they may be posted at the destination point of the route or they may be retained at the nearest office of the permittee.

(5) [Deleted.]

(f)(1) No person shall fail to provide accurate information concerning the granting of a permit.

(2) No person shall violate any of the terms, conditions, restrictions, rules or regulations published in the policy or stated on the permit. A violation of any of the terms and conditions set forth in such permit shall render the permit null and void.

(3) Any permit obtained on the basis of false or misleading data is null and void. Any fee levied for it shall not be returned or transferred.

(4) Any permit which shall be rendered null and void for whatever reason shall subject the violator to such punishment as shall be permitted by law for persons not having obtained permits in the first instance.

(g) The revenue from the fees imposed pursuant to this section shall be deposited no later than the close of the next business day following such receipt, to the credit of the Transportation Trust Fund, established pursuant to Chapter 14 of Title 2, as amended.

(36 Del. Laws, c. 10 § 119; Code 1935 § 5657; 45 Del. Laws, c. 283 § 3; 47 Del. Laws, c. 57; 21 Del. C. 1953 § 4504; 57 Del. Laws, c. 671 § 10; 59 Del. Laws, c. 101 §§ 1, 2; 60 Del. Laws, c. 503 § 24; 62 Del. Laws, c. 343 § 1; 64 Del. Laws, c. 207 § 5; 64 Del. Laws, c. 338 §§ 1-3; 67 Del. Laws, c. 345 § 3; 69 Del. Laws, c. 291 § 264; 70 Del. Laws, c. 169 §§ 3-6; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 220 §§ 1-3; 75 Del. Laws, c. 118 §§ 1, 2.)

## § 4505 Traffic control devices.

The Secretary of Transportation may implement this chapter by erection of traffic control devices and provided further that:

(1) Traffic control devices may be erected on any highway establishing the maximum permitted weight of any vehicle including load that may be driven thereover.

(2) Traffic control devices may be erected on any highway prohibiting the operation of trucks or other commercial vehicles thereover.

(36 Del. Laws, c. 10 § 120; Code 1935 § 5658; 46 Del. Laws, c. 124; 21 Del. C. 1953 § 4505; 58 Del. Laws, c. 550; 60 Del. Laws, c. 503 § 24; 60 Del. Laws, c. 700 § 9; 60 Del. Laws, c. 701 § 64; 64 Del. Laws, c. 207 § 5.)

## § 4506 Enforcement authority.

(a) Any police officer, having reason to believe that the weight of a vehicle and load is unlawful, or during the course of a routine check of all applicable vehicles, may weigh said vehicle by means of a portable or stationary scale and/or may require that such vehicle be driven to a designated scale location and be weighed. The officer may then require the driver to unload immediately such portion of the load as is necessary to decrease the gross weight of such vehicle to the maximum specified in this chapter or for which it is registered, whichever is the lesser weight. All such materials shall be unloaded and cared for by the owner or operator of the vehicle at the risk and expense of such owner or operator. All farm vehicles and trucks are exempted from this subsection while engaged in farming operations except live-haul poultry trucks shall not be exempted from this section.

(b) It shall be unlawful for an owner or operator to fail to remove from the deposit area by a time specified by the officer any such material that has been unloaded. An owner or operator, or both, found to be in violation of this section shall be punished as provided in § 4508 of this title.

(c) It shall be unlawful and punishable pursuant to § 4508 herein for an owner or operator to:

(1) Fail to obey traffic control devices erected to enforce this chapter;

(2) Fail to stop at areas selected for vehicle weighing operations;

(3) Deviate from the route of travel to avoid State Police weighing operations;

(4) Deliberately destroy or damage traffic control devices or weighing equipment erected or established to enforce this chapter.

(d)(1) A summons in appropriate form to be adopted by the Department of Safety and Homeland Security may be attached to an unattended vehicle found to be in violation of § 4508 of this title by any police officer authorized to arrest for violations of this title, in lieu of arrest of the operator of such vehicle.

(2) If the identity of the operator of an unattended vehicle is not otherwise apparent, it shall be prima facie evidence that the person in whose name the vehicle is registered as the owner is responsible for such violation.

(e) Any remedy or penalty imposed pursuant to this section shall not relieve the owner or operator of any requirement or penalty otherwise imposed by operation of law or pursuant to this chapter.

(36 Del. Laws, c. 10 § 118; 37 Del. Laws, c. 10 § 32; Code 1935 § 5656; 21 Del. C. 1953 § 4506; 57 Del. Laws, c. 543; 64 Del. Laws, c. 207 § 5; 66 Del. Laws, c. 266 §§ 1, 2; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 102; 78 Del. Laws, c. 152 § 1; 79 Del. Laws, c. 220 § 3.)

## § 4507 Weighing equipment and procedures.

(a) The Secretary of Safety and Homeland Security may adopt such regulations and procedures as may be necessary to implement this section and to select such equipment as may be necessary for law-enforcement weighing purposes.

(b) Equipment used for law-enforcement weighing may include, but is not limited to, the following:

(1) "Vehicle scale";

(2) "Axle load scale";

(3) "Wheel load weigher".

(c) The tolerance or permissible error from true value for weighing devices utilized for law-enforcement purposes shall be those which have been adopted by the Division of Standards and Inspection of the State Department of Agriculture.

(d) Vehicle weights may be determined by either of the methods defined as follows:

(1) "Single draft weighting";

(2) "Multiple draft weighting".

(21 Del. C. 1953 § 4508; 57 Del. Laws, c. 542; 61 Del. Laws, c. 230 §§ 1, 2; 64 Del. Laws, c. 207 § 5; 74 Del. Laws, c. 110 § 103.)

## § 4508 Penalties.

(a) Any person who violates any requirement of this chapter, relating to size or weight of a vehicle or a combination of vehicles or restrictions regarding parking in residence districts pursuant to § 4512 of this title, shall be punished as follows:

(1) A first offense shall be punishable by a fine of not less than $28.75 nor more than $230 or by a term of imprisonment of not more than 30 days or both.

(2) A subsequent like offense shall be punishable by a fine of not less than $115 nor more than $575 or by a term of imprisonment of not more than 60 days or both.

(b) Any person who violates any requirement of this chapter, specifically relating to weight of a vehicle or a combination of vehicles, such that said vehicle shall be classified as an "overweight vehicle," shall in addition to whatever other penalties may be allowed by law be punished as follows:

(1) A first offense shall be punishable by a fine for all excess weight up to and including 5,000 pounds in the amount of 2.3 cents per pound and a fine for all excess weight over 5,000 pounds in the amount of 5.75 cents per pound or by a term of imprisonment not to exceed 30 days or both.

(2) Each subsequent offense shall be punishable by a fine for all excess weight up to and including 5,000 pounds in the amount of 5.75 cents per pound and a fine for all excess weight over 5,000 pounds in the amount of 11.5 cents per pound or by a term of imprisonment not to exceed 60 days or both.

(c) For purposes of this section a first offense shall be defined as one not previously committed by the person charged within the previous 24 months prior to the date of the offense. A subsequent like offense shall be deemed to have occurred if the person charged has previously been convicted or charged and subsequently convicted of the same offense within the previous 24 months prior to the date of this offense.

(36 Del. Laws, c. 10 § 142; 38 Del. Laws, c. 30; 40 Del. Laws, c. 37 § 1; Code 1935 § 5680; 46 Del. Laws, c. 61; 21 Del. C. 1953 § 4507; 60 Del. Laws, c. 596 § 1; 63 Del. Laws, c. 337 § 2; 64 Del. Laws, c. 207 § 5; 68 Del. Laws, c. 9 §§ 52, 53; 70 Del. Laws, c. 186 § 1; 78 Del. Laws, c. 237 § 2.)

## § 4509 Jurisdiction.

(a) Justices of the peace shall have original jurisdiction to hear, try and finally determine alleged violations of this chapter. Upon a finding of guilt, such justice of the peace may impose such penalties or combination of penalties as are permitted by this chapter. Upon application of the State or defendant, in accordance with the rules of the applicable court, the matter may be removed to the Court of Common Pleas for determination. All other rules of the courts of Delaware shall apply. The justice of the peace may require any or all defendants to post a bond in an amount sufficient to guarantee payment of all potential fines and costs which may be required to be paid should a judgment of guilt be determined as to each such defendant or which shall be forfeit in the event the defendant fails to appear for a scheduled Court appearance. In the event, a bond shall be posted in an amount sufficient to cover the minimum potential fine and costs which may be imposed, upon the adjudication of guilt.

(1) Any such bond shall be made payable to the court upon demand in the event the defendant fails to appear for a scheduled court appearance or upon default on the judgment against the defendant.

(2) Upon forfeiture of the bond to the court such bond shall be made payable to the State upon expiration of the appropriate appeal period.

(3) Upon adjudication of guilt and payment of such fines and costs as may be imposed by the court or upon a finding of not guilty and expiration of the appropriate appeal period, such bond shall be returned to the defendant(s).

(b) In the event either party applies to have the matter removed to the Court of Common Pleas, as provided herein, any bond imposed pursuant to subsection (a) of this section shall be reissued in the name of the appropriate court. All other provisions of subsection (a) of this section shall apply.

(c) In the event either party appeals, such bond(s) issued pursuant to this section shall remain in full force and effect until such time as the matter has finally been resolved.

(36 Del. Laws, c. 10 § 120; Code 1935 § 5658; 46 Del. Laws, c. 124; 21 Del. C. 1953 § 4505; 58 Del. Laws, c. 550; 60 Del. Laws, c. 503 § 24; 60 Del. Laws, c. 700 § 9; 60 Del. Laws, c. 701 § 64; 64 Del. Laws, c. 207 § 5.)

## § 4510 Conflict with federal requirements.

(a) Any conflict between a provision of this chapter and any federal law or implementing regulation, such provision of this chapter shall be void and of no force and effect and unenforceable. Any such provision of this chapter declared to be inoperable, as provided herein, shall be brought to the attention of the next session of the General Assembly and shall not, in any event, serve to invalidate any other provision of this chapter.

(b) Any other provision of this chapter to the contrary notwithstanding, a vehicle or combination of vehicles having a weight in excess of that permitted by § 4503 of this title lawfully may be operated on any interstate highway or United States numbered route if such vehicle or combination of vehicles has been issued a permit for that purpose pursuant to § 4504 of this title. Regarding such permits issued pursuant to § 4504(c)(1) of this title, the State has determined that vehicles bearing such permits could be lawfully operated within this State on July 1, 1956.

(64 Del. Laws, c. 207 § 5; 67 Del. Laws, c. 345 § 4; 70 Del. Laws, c. 259 § 7.)

## § 4511 Removal of disabled or abandoned trucks and trailers from highways.

A tow truck or wrecker may, without regard to the limitations of the length, weight or width as specified in this chapter, tow disabled or abandoned truck, trucks and trailers, or truck and semitrailers from highways to a point where such disabled or abandoned vehicle can be repaired or stored.

(63 Del. Laws, c. 337 § 1; 64 Del. Laws, c. 207 § 5.)

## § 4512 Oversized motor vehicle and trailer parking.

(a) In any residence district it shall be unlawful to park, store, or permit to be parked or stored on a highway within such residence district any:

(1) Trailer, semi-trailer, or recreational trailer unattached to a motor vehicle; or

(2) A motor vehicle the length of which is greater than 276 inches or the width of which is over 96 inches or the height of which is over 120 inches or the gross vehicle weight of which exceeds 10,000 pounds, as such weight has been registered and recorded with the Delaware Division of Motor Vehicles (or as recorded with any other state's Department of Motor Vehicles).

(b) Motor vehicles parked pursuant to the following situations shall be exempt from this section:

(1) Any motor vehicle parked on a highway within a residence district in conjunction with ongoing legal service or work being performed in relation to a residence or business contained therein. Notwithstanding the above, the motor vehicle may remain parked within such residence district only for the time necessary to complete such work or service. This exemption shall only apply if such motor vehicle is parked immediately and entirely adjoining the property of the residence or business, being serviced. Examples of such motor vehicles include, but are not limited to, delivery trucks, limousine services, and moving trucks.

(2) Any motor vehicle used for work being performed or on call in case of emergencies:

a. By a public utility as defined in § 102(2) of Title 26 or by others working on its behalf;

b. In connection with a cable television system as defined in § 102(4) of Title 26; or

c. By a municipality or municipal electric company or by others working on their behalf.

(c) In any residence district, it shall be unlawful to park, store, or permit to be parked or stored on a highway within such residence district, any motor vehicle with a trailer, semi-trailer, or recreational trailer attached unless:

(1) It is parked, stored, or permitted to be parked or stored on the highway immediately and entirely adjacent to the owner's property; or

(2) Unless the exemptions otherwise applicable to motor vehicles in subsection (b) of this section apply.

(d) This section shall apply to only New Castle County.

(76 Del. Laws, c. 334 § 1; 78 Del. Laws, c. 237 § 1.)

# Part III
# Operation and Equipment
# Chapter 46
# ADVERTISEMENT AND SALE OF MASTER KEYS

## § 4601 Introduction, sale, distribution or advertisement for sale to public of motor vehicle master keys; penalties.

(a) Whoever knowingly introduces, manufactures for introduction or transports or distributes in this State any motor vehicle master key shall be fined not more than $2,000, or imprisoned not more than 5 years or both.

(b) Whoever knowingly disseminates or knowingly causes to be disseminated any advertisement or sale to the public of this State motor vehicle master keys shall be fined not more than $2,000, or imprisoned not more than 5 years or both.

(c) As used in this section, "master key" means any key adapted to fit the ignition switch of 2 or more motor vehicles, the ignition switches of which are designed to operate by different keys.

(21 Del. C. 1953 § 4601; 57 Del. Laws, c. 48.)

## § 4602 Exemptions.

Section 4601 of this title shall not apply to:

(1) The introduction, manufacture for introduction, transportation, distribution, sale or possession in this State of motor vehicle master keys for use in the ordinary course of business by any bona fide locksmith, vehicle manufacturer, lock manufacturer, common carrier, contract carrier, new or used car dealer, rental car agency, automobile club or association or any department, agency or instrumentality of:

a. This State;

b. The United States; or

c. Any political subdivisions of any such entity;

(2) The shipment, transportation or delivery for shipment in this State of motor vehicle master keys in the ordinary course of business of any common carrier or contract carrier.

(21 Del. C. 1953 § 4602; 57 Del. Laws, c. 48.)

## § 4603 Reporting of keys; penalties.

Any person, corporation, agency, association, club, department or carrier possessing any master key pursuant to this chapter shall, before May 30, 1969, and every 6 months thereafter, submit to the Secretary of Public Safety of this State a list describing all master keys which it possesses. Any person, corporation, agency, association, club, department or carrier which submits a list pursuant to this section which list does not contain any master key which was described in any previous list to the Secretary of Public Safety shall, in writing, notify the Secretary of Public Safety of the reason for omission. Whoever knowingly fails to comply with this section shall be fined not more than $2,300, or imprisoned not more than 5 years or both.

(21 Del. C. 1953 § 4603; 57 Del. Laws, c. 48; 57 Del. Laws, c. 670 § 29; 68 Del. Laws, c. 9 § 54.)

## § 4604 Possession of motor vehicle master keys, manipulative keys, key-cutting devices, lock picks or lock picking devices and hot wires; penalty; class E felony.

(a) No person shall have in possession any motor vehicle master key, manipulative key or device, key-cutting device, lock pick or lock picking device or hot wire, designed to open or capable of opening the door or trunk of any motor vehicle or of starting the engine of a motor vehicle. Any person who violates this subsection shall be guilty of a class E felony as the same is defined in Chapter 42 of Title 11 and shall be sentenced in accordance therewith.

(b) This section shall not apply to any bona fide dealer of new or used motor vehicles, a car rental agent, a locksmith, a public utility subject to the jurisdiction of the Public Service Commission or the agents of such persons while such persons or their agents are acting within the scope of their employment. This section shall not apply to a private investigator who in the usual course of business repossesses vehicles if such investigator is licensed and bonded by the State or the employees of such private investigator while the employee is repossessing vehicles in the usual course of business and is bonded and licensed by the State. This section shall not apply to a state, county or municipal law-enforcement officer who is acting within the scope of official duties. Nor shall this section apply to a bona fide business which has a key-cutting device located and used on the premises for the purpose of making replacement keys.

(59 Del. Laws, c. 559 § 1; 70 Del. Laws, c. 186 § 1.)

# Part III
# Operation and Equipment
# Chapter 47
# MOTOR CARRIER SAFETY—RESPONSIBILITY

## § 4701 Statement of legislative purpose.

The purpose of this chapter is to reduce truck and bus related accidents on our highways by minimizing the causes related to mechanical failures, driver error and careless safety practices by motor carriers, and to standardize regulations for the transportation industry.

(65 Del. Laws, c. 198 § 1.)

## § 4702 Adoption of federal requirements — In general.

(a) The State hereby adopts the following parts of the Code of Federal Regulations, Title 49, Chapter III, Subchapter B, except as modified by this chapter: Part 387, Part 390, Part 391, Part 392, Part 393, Part 395, Part 396 and Part 397 adopted pursuant to the Transportation Article of the United States Code (49 U.S.C. § 101 et seq.).

(b) Notwithstanding the adoption of the laws and regulations as indicated in subsection (a) of this section, no requirements under this chapter shall apply to any single vehicle or a vehicle in combination operated in intrastate commerce with a gross vehicle weight rating or gross vehicle weight of 26,000 pounds or less, except for:

(1) A vehicle being used to transport hazardous materials of a type or quality that requires the vehicle to be marked or placarded in accordance with the Federal Motor Carrier Safety Regulations; or

(2) A vehicle having a seating capacity of 16 or more persons.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 11; 74 Del. Laws, c. 217 §§ 16-18; 75 Del. Laws, c. 324 § 1.)

## § 4703 Adoption of federal requirements — Amendments of 49 C.F.R. Part 390.

Amend § 390.3 of 49 C.F.R. Part 390 by adding "and intrastate" after the word "interstate" and before the word "commerce."

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 1; 74 Del. Laws, c. 217 § 19.)

## § 4704 Adoption of federal requirements — Amendments of 49 C.F.R. Part 391.

(a) Section 391.11(b)(1) of 49 C.F.R. Part 391 is stricken in its entirety and in its place is inserted the following:

"(1) Is at least 21 years old if engaged in interstate commerce or at least 18 years or older and has at least 1 year previous experience as an operator of a motor vehicle if engaged in intrastate commerce".

(b) Intra-State Only Restricted Commercial Driver License Medical — Persons who are not physically qualified to drive a commercial motor vehicle per 49 C.F.R. § 391.41 may apply for an intrastate only restricted commercial driver license waiver provided they are otherwise qualified to drive a motor vehicle, other than a motor vehicle which requires endorsements to transport passengers or hazardous materials, and meet the other provisions of this subsection, Title 21 and the Federal Motor Carrier Regulations.

The applicant must provide evidence and certify to the Secretary of Transportation that they have:

(1) Held a CDL and were employed on a full time basis in the operation of motor vehicles weighing over 26,000 pounds for at least 4 years during the previous 6 years;

(2) Not had a CDL disqualification during the previous 6 years;

(3) Not incurred 4 or more serious traffic violations, railroad-highway grade crossing offenses or out-of-service violations during the previous 6 years.

The Division will establish policy to administer the CDL medical waiver program. The applicant must provide recent physical examinations signed by the driver's primary physician and, if appropriate, from a medical specialist. The Division may require the applicant to successfully complete a training course and evaluation by a physical rehabilitation center. The Division may refer individual applications to the Medical Advisory Board for their advice concerning the applicant's ability to safely operate motor vehicles weighing more than 26,000 pounds. The driver may be required to successfully complete the CDL knowledge tests and CDL road skill test prior to issuing an intra-State only restricted CDL license.

A "K" restriction will be added to the CDL driver license once a medical waiver is granted. The CDL medical waiver expires on the CDL expiration date or upon a date determined by the Division, whichever is earlier. Ninety days before the CDL medical waiver expires, the Division will notify the driver by letter using the address of record that the driver must reapply for a CDL medical waiver to continue operating a commercial motor vehicle in this State. However, once an applicant is initially granted a CDL medical waiver, the Division may issue a 90-day temporary CDL medical waiver pending the results of medical or rehabilitation examinations.

(c) State, county and local government employees who hold a commercial driver license and operate commercial motor vehicles as defined by § 2603 of this title as part of their official duties for the State or any political subdivision therein, shall meet the federal physical qualifications and examination requirements found in 49 C.F.R. Part 391, Subpart E unless 1 of the following exceptions apply:

(1) The employee is approved for an intrastate only restricted commercial driver license in accordance with subsection (b) of this

section; or

(2) The employee is a school bus driver and has met the annual Department of Education physical examination requirements in accordance with § 2708(a)(2) of this title.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 §§ 2-4; 66 Del. Laws, c. 426 § 1; 74 Del. Laws, c. 110 § 104; 74 Del. Laws, c. 217 § 20; 75 Del. Laws, c. 220 §§ 1, 2; 76 Del. Laws, c. 42 § 1; 78 Del. Laws, c. 87 § 1.)

## § 4705 Adoption of federal requirements — Amendments of 49 C.F.R. Part 392.

(a) Amend § 392.4 of 49 C.F.R. Part 392 by adding a new subparagraph (e) to read as follows:

"(e) Nothing in this section shall preclude prosecution under § 4177 of this title."

(b) Amend § 392.5 of 49 C.F.R. Part 392 by adding a new subparagraph (f) to read as follows:

"(f) Nothing in this section shall preclude prosecution under § 4177 of this title."

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 5; 74 Del. Laws, c. 217 § 21; 78 Del. Laws, c. 383 § 2.)

## § 4706 Adoption of federal requirements — Amendment of 49 C.F.R. Part 393.

(Repealed by 74 Del. Laws, c. 217 § 22, eff Sept 30, 2005.)

## § 4707 Adoption of federal requirements — Amendment of 49 C.F.R. Part 395.

(a) Amend 49 C.F.R. § 395.3(b) by striking the word "No" as it appears as the first word thereof, and by substituting in lieu thereof the phrase, "Unless an emergency waiver is issued by the Director of the Delaware Emergency Management Agency, to assist with energy supply deliveries such as heating oil and liquefied petroleum gas, no."

(b) Amend 49 C.F.R § 395.1(n) by adding the following new sentences: "Any utility vehicle driver engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or unscheduled shall be exempted from 49 C.F.R. Part 395 in its entirety. The exemption of the regulation provided for in this subsection shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of the Federal Motor Carrier Safety Regulations."

(c) Amend 49 C.F.R. § 395.1(n) by adding the following new sentences: "Any utility vehicle driver engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or unscheduled shall be exempted from 49 C.F.R. Part 395 in its entirety. The exemption of the regulation provided for in this subsection shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of the Federal Motor Carrier Safety Regulations."

(66 Del. Laws, c. 114 § 10; 73 Del. Laws, c. 14 § 1; 74 Del. Laws, c. 217 § 23; 75 Del. Laws, c. 12 §§ 1, 2.)

## § 4708 Adoption of federal requirements — Amendments of 49 C.F.R. Part 396.

(a) Subsection (a) of 49 C.F.R. § 396.9 is stricken in its entirety and the following is substituted in its place:

"(a) Personnel authorized to perform inspections — Every special agent of the Federal Highway Administration, Secretary of Public Safety, the Secretary of Safety and Homeland Security's deputies, state police, other sworn police officers and size and weight enforcement technicians of the Division of State Police working in conjunction with and in the physical presence of a uniformed police officer, are hereby authorized to enter and perform inspections of any motor vehicle, cargo and driver of any motor carrier for compliance with safety regulations adopted pursuant to this chapter. State police size and weight enforcement technicians shall have the same authority and duties enforcing this chapter as granted in § 710 of this title."

(b) Farm vehicles being operated on an intrastate basis within this State shall be exempt from the recordkeeping requirements as provided in 49 C.F.R. Part 396.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 §§ 6-8; 74 Del. Laws, c. 110 § 105; 74 Del. Laws, c. 217 § 24.)

## § 4709 Fines, penalties, voluntary assessments.

(a) Any person, driver or motor carrier who violates any subpart of this chapter, or fails to do any act required by any subpart in this chapter or does any act forbidden in this chapter or subpart of the Code of Federal Regulations hereby adopted, upon conviction thereof, shall be sentenced to pay a fine for each violation of not less than $28.75 nor more than $115, or imprisonment for not more than 30 days or both. Any such person, driver or motor carrier committing a second or subsequent offense within 2 years upon conviction thereof shall be sentenced to pay a fine of not less than $115 nor more than $575 or imprisonment for not less than 60 days nor more than 1 year, or both.

(b) Section 709 of this title shall be applicable to this chapter.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 8; 68 Del. Laws, c. 9 § 55.)

## § 4710 Authority to place vehicle, etc., out of service.

The Secretary of Public Safety, the Secretary of Safety and Homeland Security's deputies, state police and other police officers authorized by law to make arrests for violations of the motor vehicle and traffic laws of the State are hereby authorized to place any vehicle, driver or operator out of service for any violation of this chapter.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 8; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 106.)

## § 4711 Jurisdiction.

Justices of the peace shall have original jurisdiction to hear, try and finally determine alleged violations of this chapter.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 8.)

## § 4712 Authority to enforce regulations.

(a) The Secretary of Public Safety, the Secretary of Safety and Homeland Security's deputies, state police and other sworn police officers are hereby authorized to make arrests without a warrant for any violation of this chapter committed in their presence.

(b) The Secretary of Public Safety, the Secretary of Safety and Homeland Security's deputies, state police and other sworn police officers authorized by the law to make arrests for violations of this chapter without a warrant are authorized upon reasonable and probable cause to believe, based upon personal investigation of a motor vehicle accident which may include information obtained from eyewitnesses, that a violation has been committed by any person then and there present and to arrest such person without a warrant.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 8; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 107, 108.)

## § 4713 Authority to promulgate rules and regulations.

The Secretary of Public Safety has authority to promulgate rules and regulations to carry out the stated purposes of this chapter.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 8.)

## § 4714 Conflicts with other requirements of Delaware Motor Vehicle Code.

(a) Nothing contained in this chapter shall be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by this chapter, provided such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used.

(b) Compliance with this chapter does not relieve the obligation to comply with other chapters of Titles 21 and 29; however, if a conflict occurs, the state or federal regulation herein adopted which promotes the greater degree of safety shall control.

(65 Del. Laws, c. 198 § 1; 66 Del. Laws, c. 114 § 8.)

# Part III
# Operation and Equipment
# Chapter 48
# OCCUPANT PROTECTION SYSTEM SAFETY ACT

## § 4801 Short title.

This chapter shall be known and may be cited as the "Occupant Protection System Safety Act."

(68 Del. Laws, c. 34 § 1; 74 Del. Laws, c. 277 § 2.)

## § 4802 Driver requirements; exceptions; sales requirements; working condition of system.

(a)(1) The driver of a motor vehicle operated on a street or highway in this State shall wear a properly adjusted and fastened seat belt which meets the applicable federal motor vehicle safety standards.

(2) The driver of a motor vehicle shall secure or cause to be secured in a properly adjusted and fastened seat belt system, as defined by the applicable federal motor vehicle safety standards, each occupant of the passenger compartment of the motor vehicle who is 16 years of age or older.

(b) The term "motor vehicle," as used in this chapter, is defined in § 101(37) of this title, with the exception of motorcycles.

(c) The provisions of this section shall not apply to:

(1) Any person in a motor vehicle who possesses a written verification from a licensed physician or a licensed physical therapist that such person is unable to wear or use an occupant protection system for physical or medical reasons;

(2) A motor vehicle which is not required to be equipped with an occupant protection system under federal law or has otherwise been exempted from compliance in conformity with federal law; or

(3) A motor vehicle operated by a letter carrier of the United States Postal Service while performing the duties of a letter carrier.

(d) [Deleted].

(e) No person shall install, distribute, have for sale, offer for sale or sell any occupant protection system, including an air bag, for use in a motor vehicle unless it meets current minimum standards and specifications under federal law.

(f) Every owner of a motor vehicle shall maintain all occupant protection systems, including air bags, and assemblies and mechanisms required by this section in proper working condition and in a manner that will enable occupants to use them.

(g)(1) Failure to comply with this section shall be considered as an aggravating circumstance for sentencing purposes for persons convicted of violations of other provisions of this title.

(2)a. Any person who is found to have violated this section in connection with the prosecution of a violation of any other provision of this title shall in addition to any fine, and at the same time as any fine is assessed to the defendant, be levied for credit to the Victim's Rights Fund an additional penalty assessment of 40% not to exceed $20 of every fine, penalty or forfeiture imposed or collected by the court for the offense under this title. Where there are multiple offenses under this title involved, the penalty assessment pursuant to this section shall be based upon a total fine for all offenses but not to exceed a total additional penalty assessment of $20. When a fine, penalty or forfeiture is suspended in whole or in part the additional penalty assessment shall not be suspended.

b. The assessment imposed herein shall be in addition to the penalty assessment imposed by § 9016(a) of Title 11.

c. Where there is no other violation of this title in addition to a violation of this section, a civil penalty of $25 shall be imposed. The failure to wear a seat belt by more than 1 person in the same vehicle at the same time, as required by this section, shall be treated as a single civil violation. Justice of the Peace Court shall have jurisdiction over actions involving this civil penalty.

(h) No motor vehicle points shall be assessed against any person for failing to comply with subsection (a) of this section and there shall be no entry made on the person's driving record for failing to comply with subsection (a) of this section.

(i) Failure to wear or use an occupant protection system shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication arising out of any motor vehicle accident, nor shall failure to wear or use an occupant protection system be admissible as evidence in the trial of any civil action or insurance claim adjudication.

(j) Notwithstanding any law to the contrary, any police officer is authorized to make an administrative stop for purposes of enforcing this section, upon reasonable and articulable suspicion that a violation of this section has occurred.

(68 Del. Laws, c. 34 § 1; 69 Del. Laws, c. 169 § 1; 74 Del. Laws, c. 90 §§ 1-3, 5[7], 6[8]; 74 Del. Laws, c. 277 §§ 3-7; 80 Del. Laws, c. 136 § 1; 80 Del. Laws, c. 168 § 1.)

## § 4803 Child restraint in motor vehicles.

(a) Every person shall be responsible, when transporting a child through the age of 7 and up to and including the weight of 65 pounds in a motor vehicle operated on the roadways, streets or highways of this State, for providing protection of the child by properly securing the child in all seating positions, according to manufacturer's instruction, in a child safety seat or booster seat meeting federal motor vehicle safety standards, and that is appropriate for the child's weight and height. Every child who has either attained the age of 8 or a weight in excess of 65 pounds and has not yet attained the age of 16 shall, in all seating positions, wear a properly secured seatbelt while in a motor

vehicle operated on the roadways, streets or highways of this State. The duty imposed by this subsection shall not apply to any operator or passenger of a motor bus, limousine or taxicab as defined in § 1801 of Title 2.

(b)(1) No child who is 65 inches or less in height and who is under 12 years of age shall occupy the front passenger seat of any vehicle equipped with a passenger-side airbag that has not been deliberately rendered inoperable in conformity with federal law. This subsection shall not apply to vehicles equipped with a passenger-side airbag specifically designed or modified by the vehicle's manufacturer for use by children and small adults.

(2) It shall not be a violation of this section for a child 65 inches or less in height and under 12 years of age to occupy the front passenger seat of a vehicle equipped with a passenger-side airbag that has not been deliberately rendered inoperable in conformity with federal law if such vehicle does not have a rear passenger seat or if all rear passenger seats are occupied by other children 65 inches or less in height and under 12 years of age. A violation of this subsection shall be considered a secondary offense, and no motor vehicle shall be stopped by a police officer solely for failure to comply with this subsection.

(c) A violation of this section shall be an offense punishable by a fine of $25 for each violation. The failure to provide a child restraint system or seat belt for more than 1 child in the same vehicle at the same time, as required by this section, shall not be treated as a separate offense.

(d) A violation of this section shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action arising out of any motor vehicle accident in which a child under 16 is injured, nor shall failure to wear a child passenger restraint system or seat belt in violation of this section be admissible as evidence in the trial of any civil action.

(e) Following May 9, 2002, and prior to January 1, 2003, the Department of Safety and Homeland Security shall implement an awareness campaign to educate motorists about the components of the law and to encourage the public to correctly and consistently uses child safety seats, booster seats and seatbelts.

(63 Del. Laws, c. 251 § 1; 66 Del. Laws, c. 409 §§ 1, 2; 68 Del. Laws, c. 9 § 38; 68 Del. Laws, c. 34 § 2; 69 Del. Laws, c. 418 §§ 1-8; 71 Del. Laws, c. 480 § 1; 73 Del. Laws, c. 254 §§ 1-3; 74 Del. Laws, c. 110 § 138; 74 Del. Laws, c. 129 § 1; 74 Del. Laws, c. 277 §§ 8, 9; 74 Del. Laws, c. 316 §§ 1, 2; 76 Del. Laws, c. 60 §§ 1-3.)

# Part IV
# Miscellaneous
# Chapter 61
# CIVIL LIABILITY FOR DRIVER'S NEGLIGENCE

## § 6101 Negligence of owners and drivers of rented vehicles; insurance of liability.

(a) The owner of a motor vehicle who is engaged in the business of renting motor vehicles without drivers, who rents any such vehicle without a driver to another, otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, and permits the renter to operate the vehicle upon the highways and who does not carry or cause to be carried public liability insurance in an insurance company or companies approved by the Insurance Commissioner of this State insuring the renter against liability arising out of the renter's negligence in the operation of such rented vehicle in limits of not less than $10,000 for anyone killed or injured and $20,000 for any number more than 1 injured or killed in any 1 accident, and against liability of the renter for property damage in the limit of not less than $5,000 for 1 accident, shall be jointly and severally liable with the renter for any damages caused by the negligence of the latter in operating the vehicle and for any damages caused by the negligence of renting the vehicle from the owner.

(b) Subsection (a) of this section shall not confer any right of action upon any passenger in any rented vehicle specified therein as against the owner, but nothing contained in this section shall prevent the introduction as a defense of comparative or contributory negligence, to the extent to which such defense is allowed in other cases.

(c) The policy of insurance referred to in subsection (a) of this section shall inure to the benefit of any person operating the rented vehicle by or with the permission of the person so renting it in the same manner and under the same conditions and to the same extent as to the renter. The insurance policy or policies above referred to need not cover any liability incurred by the renter of any vehicle to any passenger in such vehicle, provided the owner, upon renting any such vehicle to another without a driver, gives to the renter a written notice of the fact that such policy or policies do not cover the liability which the renter may incur on account of the renter's negligence in the operation of such vehicle to any passenger in such vehicle.

(d) When any suit or action is brought against the owner under this section, the judge or court before whom the case is pending shall cause a preliminary hearing to be had in the absence of the jury for the purpose of determining whether the owner has provided, or caused to be provided, insurance covering the renter in the limits above mentioned. Whenever it appears that the owner has provided or caused to be provided insurance covering the renter in the sums above mentioned, the judge or court shall dismiss, as to the owner, the action brought under this section.

(36 Del. Laws, c. 10 § 21; Code 1935 § 5559; 21 Del. C. 1953 § 6102; 61 Del. Laws, c. 292 § 7; 70 Del. Laws, c. 186 § 1.)

## § 6102 Notification by owner of intention to rent vehicle.

No owner of any motor vehicle who is engaged in the business of renting motor vehicles without drivers shall rent a motor vehicle without a driver, otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, unless the owner has previously notified the Department of the intention to so rent such vehicle and has complied with the requirements as to the showing of financial responsibility as provided in § 2105 [repealed] of this title.

(36 Del. Laws, c. 10 § 21; Code 1935 § 5559; 21 Del. C. 1953 § 6103; 70 Del. Laws, c. 186 § 1.)

## § 6103 Records required of owners of rented vehicles; inspection; forms.

(a) Every person engaged in the business of renting motor vehicles without drivers, who rents any such vehicle without a driver, otherwise than as part of a bona fide transaction involving the sale of such motor vehicle, shall maintain a record of the identity of the person to whom the vehicle is rented and the exact time the vehicle is the subject of such rental or in possession of the person.

(b) Whoever, being an owner, fails to make or have in possession or refuses an inspection of the record required in this section, shall be fined in such amount or imprisoned for such term, or both, as the court, in its discretion, may determine.

(c) If the Secretary prescribes a form for the keeping of the record provided for in this section, the owner shall use such form.

(36 Del. Laws, c. 10 § 22; Code 1935 § 5560; 21 Del. C. 1953 § 6104; 57 Del. Laws, c. 670 § 17A; 70 Del. Laws, c. 186 § 1.)

## § 6104 Liability of parent, guardian or employer for negligence of minor.

(a) Any negligence of a minor under age 18 driving a motor vehicle upon a highway of this State, who has been licensed under § 2710 of this title, shall be imputed to any person who signed the license application on behalf of the minor, and that person shall be jointly and severally liable with the minor for any damages resulting from the minor's negligence except that case workers of the Division of Family Services, acting in accordance with § 2710 of this title, and on behalf of a child in the custody of the Department of Services for Children, Youth and their Families, shall be exempted from such liability.

(b) The liability imposed upon the person who signed the application of a minor under the age of 18 years, as provided in subsection (a) of this section, shall apply to the original license or permit granted to the minor or any renewal thereof, without the necessity of such person signing the minor's renewal application, unless such person notifies the Department of Transportation in writing at least 30 days prior to the

date of any such renewal of the original license or permit granted to the minor that the person does not consent to such renewal.

(36 Del. Laws, c. 10 § 71; Code 1935 § 5609; 44 Del. Laws, c. 189; 21 Del. C. 1953 § 6105; 57 Del. Laws, c. 495 § 3; 57 Del. Laws, c. 670 § 17B; 71 Del. Laws, c. 282 §§ 8, 9; 74 Del. Laws, c. 110 § 109; 76 Del. Laws, c. 415 § 6.)

## § 6105 Liability of owner for negligence of minor.

Every owner of a motor vehicle who causes or knowingly permits a minor under the age of 18 years to drive such vehicle upon a highway and any person who gives or furnishes a motor vehicle to such minor shall be jointly and severally liable with such minor for any damages caused by the negligence of such minor in driving such vehicle, and the negligence of such minor shall be imputed to such owner or such person for all purposes of civil damages.

(36 Del. Laws, c. 10 § 72; Code 1935 § 5610; 21 Del. C. 1953 § 6106; 49 Del. Laws, c. 407; 70 Del. Laws, c. 186 § 1.)

# Part IV
# Miscellaneous
# Chapter 63
# SALE OF MOTOR VEHICLES

## § 6301 Definitions [For application of this section, see 79 Del. Laws, c. 161, § 5]

As used in this chapter:

(1) "Consignment" is when a vehicle owner enters into an agreement with a dealer for the sale of a vehicle without a transfer of ownership to the dealer.

(2) "Dealer" or "motor vehicle dealer" includes:

a. A person, corporation, partnership, proprietorship or any other legal entity who is in the business of buying, selling or exchanging during any 12-month period 5 or more vehicles; and/or

b. Any person, corporation, partnership, proprietorship or any other legal entity who offers to sell, sells, displays or permits the display for sale, of 5 or more vehicles within a 12-month period.

(3) "Dealer" or "motor vehicle dealer" shall not include:

a. A receiver, trustee, personal representative, or other person appointed by or acting under the authority of any court of competent jurisdiction;

b. A public official who sells or disposes of vehicles in the performance of the official's duties;

c. Any financial institution chartered or authorized to do business in Delaware, including its subsidiaries or affiliates, which receives title to a motor vehicle in the normal course of its business by reason of a lease, foreclosure, repossession, judicial sale or voluntary conveyance or reconveyance of the motor vehicle as a result of any lease of the motor vehicle or any extension of credit secured by the motor vehicle or the enforcement of any lien on the motor vehicle;

d. A licensed auctioneer acting on behalf of a seller, secured party or owner and when title does not pass to the auctioneer and the auction is not for the purpose of avoiding this chapter;

e. An insurance company authorized to do business in Delaware that sells or disposes vehicles under a contract with its insured in the regular course of business;

f. Either a manufacturer or distributor who sells or distributes vehicles to licensed dealers or a person employed by a manufacturer or distributor to promote the sale of the vehicles of the manufacturer or distributor, if that manufacturer, distributor or person does not sell vehicles to retail buyers;

g. A nonprofit educational foundation organized to promote instructional effectiveness and educational achievement.

(4) "Department" shall mean the Department of Transportation, Division of Motor Vehicles.

(5) "Director" shall mean the Director of the Division of Motor Vehicles or the Director's authorized or delegated representative.

(6) "Division" shall mean the Division of Motor Vehicles.

(7) "Franchised motor vehicle dealer" means a dealer in new vehicles that has a franchise agreement with a manufacturer or distributor of vehicles or, in the case of a recreational vehicle dealer, has a manufacturer-dealer agreement with a manufacturer of distributor to sell a particular line-make of new recreational vehicle or new recreational trailer. As used in this section, the term "line-make" is defined in § 8402(7) of this title.

(8) "Retail dealer" means a dealer who may sell vehicles to another dealer, licensed auto auction, or retail customers.

(9) "Vehicle" means motor vehicles, trailers, recreational vehicles, recreational trailers, mobile homes, and any other device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by animal power, human power, off-highway vehicles, special mobile equipment and farm equipment.

(10) "Wholesale dealer" means a dealer who may sell vehicles only to another dealer or licensed auto auction.

(71 Del. Laws, c. 449 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 § 110; 75 Del. Laws, c. 33 § 2; 79 Del. Laws, c. 44 § 2; 79 Del. Laws, c. 161 § 2.)

## § 6302 License requirements.

(a) Department approval. — No person, corporation, partnership, proprietorship or any other legal entity shall carry on or conduct the business of buying, selling or dealing in new or used vehicles unless issued a dealer's license by the Department.

(b) Application — Application for a dealer's license shall be made upon the form prescribed by the Department and shall contain the name and address of the applicant. When the applicant is a partnership the name and address of each partner shall appear on the application. When the application is a corporation, the names of the principal officers of the corporation, the state in which incorporated, the place or places where the business is to be conducted and such other information as may be required by the Department shall appear on the application. Every such application shall contain a certification by the applicant that the information provided is true and accurate to the best of the applicant's knowledge.

(c) Resident requirements. — The owner of a dealership must have been issued a Delaware driver's license and established residency in

Delaware at least 90 days prior to the time of application. Franchised and new vehicle dealers are exempted from this requirement.

(d) Fee. — No fee for a license is charged by the Department. However, all dealerships must obtain a yearly dealer business license from the Department of Finance, Division of Revenue. Wholesale dealers shall also obtain an additional wholesale license pursuant to § 6307 of this title. The business license(s) must be kept at the business location and be available for inspection by the Department.

(36 Del. Laws, c. 10 § 46; Code 1935 § 5583; 21 Del. C. 1953 § 6301; 65 Del. Laws, c. 79 §§ 1-4; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 449 § 1.)

## § 6303 Location requirements; records [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) Except as provided in § 6311(b) of this title, no dealers license shall be issued to any vehicle dealer unless the dealership has an established place of business owned, rented, or leased by the dealership and which:

(1) Satisfies all local zoning requirements. Zoning approval shall be submitted to the Division when the application is submitted;

(2) Has sales and office space devoted to the dealership and has adequate display space for 5 or more vehicles, and, in the case of a new recreational vehicle dealer, has a service facility;

(3) Has a telephone installed in the office and listed in the business name;

(4) Has adequate liability insurance as required by § 2118 of this title;

(5) Has a sign on the premises measuring at least 24 x 36 inches which lists the dealership's approved name.

(b) The dealership office shall maintain and have adequate file cabinets to maintain records required by the Department. All dealer records regarding purchases, sales, transfers of ownership, collection of vehicle document fees, titling, registration fees, odometer disclosure statements, temporary license plates and records of dealer registration plates assigned to the dealer shall be maintained on the premises of the licensed location. All records shall be maintained for a minimum of 5 years. The Director may, on written request by a dealer, permit records to be maintained at a location other than the premises of the licensed location for good cause shown.

(c) Every dealer shall have in its possession a certificate of title assigned to the dealership or other documentary evidence of the dealer's right to the possession of, and for every vehicle in the dealership's possession or on the dealership premises.

(d) During business hours, the records of the dealership shall be open to inspection by Department officials, any police officer or any duly authorized investigator at the Department of Justice while discharging their official duties.

(71 Del. Laws, c. 449 § 1; 79 Del. Laws, c. 161 § 2.)

## § 6304 Expiration and renewal of license.

Each license issued under this title shall expire at midnight on December 31 of the period for which it was issued and may be renewed upon application to the Department prior to its expiration. Dealers who have not sold a minimum of 5 vehicles between January 1 and December 31 of each year shall be denied license renewal. The Director of the Division of Motor Vehicles may, on written request by a dealer, permit renewal of a dealer's license for dealers selling less than 5 vehicles for good cause shown in writing to the Department.

(71 Del. Laws, c. 449 § 1.)

## § 6305 Bill of sale.

Every motor vehicle dealer shall complete, in duplicate, a bill of sale for each sale or exchange of a motor vehicle. The original shall be retained for a period of 5 years. A duplicate copy shall be delivered to the purchaser at the time of sale or exchange. The bill of sale shall be signed by both buyer and seller. A bill of sale shall include the following:

(1) The name and address of the person to whom the vehicle was sold or traded;

(2) The date of the sale or trade;

(3) The name and address of the motor vehicle dealer selling or trading the vehicle;

(4) The make, model, year, vehicle identification number and body style of the vehicle;

(5) The sale price of the vehicle;

(6) The amount of any deposit made by the buyer;

(7) A description of any Delaware titled vehicle used as a trade-in and the amount credited the buyer for the trade-in;

(8) The amount of the document fee, title fee, registration fee or any other fee for which the buyer is responsible and the dealer has collected; each fee shall be individually listed and identified; and

(9) The amount of any balance due at settlement.

(36 Del. Laws, c. 10 § 47; Code 1935 § 5585; 21 Del. C. 1953 § 6303; 65 Del. Laws, c. 79 § 11; 70 Del. Laws, c. 186 § 1; 71 Del. Laws, c. 449 § 1.)

## § 6306 Consignment vehicles-contract.

Any motor vehicle dealer offering a vehicle for sale on consignment shall have in their possession a consignment contract for the vehicle, executed and signed by the dealer and the consignor. The consignment contract shall include the following:

(1) The complete name and address of the owner(s);

(2) The name, address and dealer identification number of the selling dealer;

(3) A complete description of the vehicle on consignment, including the make, model, year, vehicle identification number and body style;

(4) The beginning and termination dates of the contract;
(5) The percentage or the net amount the owner is to receive, if the vehicle is sold;
(6) A disclosure of all unsatisfied liens on the vehicle and the location of the certificate of title to the vehicle.

Any dealer offering a vehicle for sale on consignment shall inform any prospective customer that the vehicle is on consignment. Dealer license plates shall not be used to demonstrate a vehicle on consignment. The owners license plate may be used if liability insurance coverage is in effect in the amount prescribed by Delaware law.

(71 Del. Laws, c. 449 § 1.)

## § 6307 Wholesale Dealers.

(a) A wholesale dealer who is licensed by the Division is authorized to do the following:
(1) Buy a vehicle from another dealer, a licensed auto auction or retail seller;
(2) Sell a vehicle to, or exchange vehicles only with another dealer or through a licensed auto auction;
(3) A wholesale dealer may operate from a private residence and is not required to comply with § 6303(a)(2) and (5) of this title.

(b) A wholesale dealer may not:
(1) Sell or exchange vehicles with a retail buyer; and
(2) Buy, sell or exchange new vehicles; and
(3) Sell vehicles on consignment.

(71 Del. Laws, c. 449 § 1.)

## § 6308 Auctions.

(a) Each person who conducts auctions of vehicles shall keep a record of each of the following:
(1) The name and address of the consignor or seller;
(2) The date on which the vehicle was consigned;
(3) The year, make, model and vehicle identification number of each vehicle consigned;
(4) The title number and State where the vehicle was last registered;
(5) The odometer mileage reading at the time of consignment;
(6) The name and address of the person to whom the vehicle was sold;
(7) The buyer's driver's license number and state which issued the license;
(8) The selling price; and
(9) The date of sale.

(b) During business hours, auction records shall be open for inspection by Division of Motor Vehicle officials, any police officer or any duly authorized investigator at the Department of Justice while discharging their official duties.

(c) Auction sales must be performed at the approved auction location.

(d) All records required by this section shall be maintained for 5 years after the sale of the vehicle to which such records apply.

(e) Auctions are authorized to issue 30-day temporary license plates under § 2130 of this title to allow vehicles to be removed from the auction lot. The temporary plates shall only be issued to individuals with a valid driver's license. The auction shall witness and record proof of any legally required liability insurance on a vehicle prior to the issuance of the temporary license plate.

(71 Del. Laws, c. 449 § 1; 72 Del. Laws, c. 97 § 1.)

## § 6309 Prohibited acts.

(a) A dealer, its agent or an employee of a dealer may not permit any individual to road test a motor vehicle if they know the individual does not have a valid driver's license.

(b) A dealer or an agent or employee of a dealer may not commit any fraud in the execution of, or any material alteration of, a contract, power of attorney or other document incident to a sale or exchange of a vehicle.

(c) A dealer or an agent or employee of a dealer may not wilfully fail to comply with the terms of a warranty or guarantee. A Federal Trade Commission Buyers Guide will be properly completed and displayed on all used vehicles. Buyer(s) will be provided a copy of the Guide prior to completion of the sale.

(d) A dealer or agent of a dealer must disclose to a buyer if the vehicle title has been branded "reconstructed", "flood damaged", "salvage" or was a "taxi". The buyer(s) shall acknowledge the disclosure as described in this paragraph by signing a disclosure statement which has been approved by the Division of Motor Vehicles and is provided by the dealership. A copy of the disclosure statement shall be provided to the Delaware Division of Motor Vehicles with the title application. In the absence of any disclosure statement, the contract may be rescinded at any time by the buyer and the dealer shall provide a full and complete refund to the buyer of all purchase moneys, including interest paid, plus all fees paid. Disclosure shall not prevent any person from otherwise bringing any action under any law for a failure to disclose material information concerning the condition or prior use of any vehicle.

(71 Del. Laws, c. 449 § 1.)

## § 6310 Acts of officers, directors, partners, and sales persons.

If a licensee is a partnership or corporation, it shall be sufficient cause for the denial or suspension of a license if any officer, director or

trustee of the partnership or corporation, or any member in the case of a partnership, has committed any act or omitted any duty which would be cause for denial or suspending a license issued to him or her as an individual under this chapter. Each licensee shall be responsible for all acts of any of their salespersons while acting as their agent, if the licensee approved of those acts or had knowledge of those acts or other similar acts and after such knowledge retained the benefit, proceeds, profits or advantages accruing from those acts.

(71 Del. Laws, c. 449 § 1; 70 Del. Laws, c. 186 § 1.)

## § 6311 License requirements [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) In the event any dealer intends to change a licensed location, the dealer shall provide the Division of Motor Vehicles advance written notice. A successful inspection of the new location shall be required prior to approval of a change of location by the dealer. All requirements of § 6303 of this title shall be completed prior to final approval.

(b) Notwithstanding anything herein to the contrary, a recreational vehicle dealer may sell and display new and used recreational vehicles or recreational trailers at trade or public retail vehicle shows, rallies, or exhibitions, including those in enclosed malls, for up to 14 days per event, provided that:

(1) Delaware recreational vehicle dealers outside of their "area of sales responsibility," as the term is defined in § 8402(1) of this title, do not exhibit, sell or offer for sale the same line-make of recreational vehicle or recreational trailers as a Delaware dealer whose area of sales responsibility encompasses the location of the recreational vehicle trade show or public retail vehicle show, or rally or exhibition, where the term "line-make" has the same meaning as defined in § 8402(7) of this title; and without the written permission of the dealer whose area of responsibility encompasses the show, rally, or exhibition site;

(2) An out-of-state recreational vehicle dealer, without an established place of business in Delaware, must meet all of the following conditions:

a. The dealer must be from a state contiguous to Delaware that permits Delaware dealers to participate in recreational vehicle trade shows, or public retail vehicle shows, or rallies, or exhibitions, including those in enclosed malls, in the dealer's state under conditions substantially equivalent to those imposed on out-of-state dealers by Delaware;

b. The dealer must be in compliance with the laws of the dealer's state of residence;

c. The recreational vehicle trade show or public retail vehicle show, or rally, or exhibition in which the dealer is participating must have a minimum of 3 participating dealers, the majority of which are from Delaware;

d. The dealer may not exhibit, sell, or offer for sale the same line-make of recreational vehicle or recreational trailers as a Delaware dealer who is participating in the same recreational vehicle trade show or public retail vehicle show, rally, or exhibition without the Delaware dealer's written permission, where the term "line-make" has the same meaning as defined in § 8402(7) of this title; and

(3) In the event that an out-of-state dealer is in violation of paragraph (b)(2) of this section, the affected in-state dealer may bring a cause of action pursuant to § 8411(c) of this title.

(71 Del. Laws, c. 449 § 1; 79 Del. Laws, c. 161 § 2.)

## § 6312 Issuance of dealer license [For application of this section, see 79 Del. Laws, c. 161, § 5]

Upon receiving a dealer license application for approval, and satisfied that the applicant is of good character and, so far as can be ascertained, the applicant has complied with and will comply with, the laws of this and other states, the Department shall approve the application and issue a dealer license. A license entitles a dealer to carry on and conduct the business of a dealer during the calendar year in which the license is issued. Franchised new vehicle dealers must provide the Division a copy of the franchise agreement, or, in the case of a recreational vehicle dealer, a manufacturer-dealer agreement, prior to being licensed as a new vehicle dealer.

(36 Del. Laws, c. 10 § 46; Code 1935 § 5584; 21 Del. C. 1953 § 6302; 52 Del. Laws, c. 191; 65 Del. Laws, c. 79 §§ 5-10; 71 Del. Laws, c. 449 § 1; 79 Del. Laws, c. 161 § 2.)

## § 6313 Grounds for denying renewal of dealer license; suspension or revocation of license [For application of this section, see 79 Del. Laws, c. 161, § 5]

A dealer license applied for or issued pursuant to this chapter may be denied, suspended, or revoked for any 1 of the following reasons:

(1) Material misstatement or omission on the application for a dealer license.

(2) Failure to maintain an established place of business, business phone or Division of Revenue Dealer Business License.

(3) Failure to comply subsequent to receipt from the Division of a cease and desist order; or a written warning or arrest; or failure to comply with this title and Title 30.

(4) Conviction of the dealership of any fraudulent or criminal act in violation of Title 11 in connection with the business of selling vehicles.

(5) Failure to maintain a service facility, if the licensee is a dealer of new recreational vehicles. Recreational vehicle dealers with multiple locations in Delaware may maintain a service facility at 1 location to satisfy this requirement.

(71 Del. Laws, c. 449 § 1; 79 Del. Laws, c. 161 § 2.)

## § 6314 Suspension and hearing notices.

(a) No license issued under this title shall be suspended, revoked or renewal thereof refused, until a written copy of the complaint made

has been furnished to the licensee against whom the same is directed. The written notice of complaint shall be sent to the licensee by certified mail, return receipt requested, addressed to the last known address as shown on the license or dealership application or other record of information in possession of the Division. The written notice shall inform the licensee of the following:

(1) This Division's intention to suspend, revoke or deny renewal of the dealership license.

(2) The nature of the complaint and the law or regulation allegedly violated by the dealership.

(3) The notice shall cite the law or regulation giving the Division authority to act.

(4) The notice shall inform the dealer of its right to request a hearing to dispute the complaint. The hearing must be requested within 10 days from earlier of the dates that the dealer received the certified letter or the Division received the return receipt on the certified letter.

(5) The notice shall inform the dealer of its right to present evidence, to be represented by counsel and to appear personally or by other representative at the hearing.

(b) The Division shall inform a dealer requesting a hearing of the date, time and place the hearing shall be held. The notification shall be provided by certified mail, return receipt requested, and shall give at least 20 days prior notice to all parties involved, unless waived by the dealer. The notice shall inform the parties of the Division's obligation to reach its decision based upon the evidence received.

(c) The Division Director or designated representative may order a temporary emergency dealer license suspension. Any suspension issued under this subsection shall be exempt from the provisions required in subsections (a) and (b) of this section, except as provided herein.

The following guidelines shall apply for this temporary suspension.

(1) If a dealer has 5 outstanding violations of §§ 2306(e) and/or 2509 of this title for not submitting a buyer's vehicle title application to the Division within the required 30 days from the date of sale; and

(2) A dealer has been provided 5 days' written notice by the Division to submit the required paperwork but has failed to comply, then the Division will place a temporary emergency dealer license suspension notice on or near the entrance of the dealer's place of business to notify potential buyers that the dealer's license is temporarily suspended.

(3) Unauthorized removal of the notice or failure to comply with the temporary emergency dealer license suspension order may result in the immediate permanent suspension of the dealer's license, after notice and an opportunity for a hearing under subsections (a) and (b) of this section.

(4) The temporary emergency dealer license suspension will be lifted by the Division when the required vehicle title applications and payments are submitted to the division.

(5) A dealer who fails to submit the required vehicle title applications and payments within 10 days after receiving a temporary emergency dealer license suspension may have its dealer license permanently suspended, after notice and an opportunity for a hearing under subsections (a) and (b) of this section.

(71 Del. Laws, c. 449 § 1; 77 Del. Laws, c. 108 § 1.)

## § 6315 Hearings.

(a) If the Division refuses an application for a license, denies a renewal of a license or proposes the suspension or revocation of a dealer's license, the Division shall provide a hearing when requested under § 6314 of this title. At the hearing the licensee shall have the right to be heard personally, by counsel or by its agent. The Director may initiate investigations, appoint a hearing officer and subpoena witnesses. After the hearing, the Director, upon receiving a decision from the hearing officer upholding the Division's position, may suspend or revoke a dealer's license, deny a renewal or refuse to approve an application. The Director shall consider prior to any suspension, revocation, denial of renewal or refusal to approve an application:

(1) The nature of the violation(s) and the dealer's willingness to make restitution to all parties harmed by dealership actions.

(2) The effect of the proposed action on the community.

The Director shall provide written notice to all parties involved of the decision by certified mail, return receipt requested. The decision is appealable to the Superior Court. Any appeal must be filed within 30 days of the earlier of the receipt of the decision by the dealer or the date of receipt of the return receipt by the Division.

(b) Should a dealer fail to maintain an established place of business, the Division may cancel the license without a hearing after notification of the intent to cancel has been sent by certified mail, to the dealer at the dealer's residence and business addresses, and the notices are returned undelivered or the dealer does not respond within 20 days from the date the notices were sent.

(71 Del. Laws, c. 449 § 1.)

## § 6316 Return of license, dealer number plates, temporary license plates, and dealer reassignment forms.

If the Division suspends, revokes or denies the renewal of the license of any dealer licensed under this chapter, the dealer immediately shall return the license, dealer number plates, temporary license plates and dealer reassignment forms belonging to the dealer. The Division may grant the licensee up to 30 days to dispose of vehicles belonging to the dealer.

(71 Del. Laws, c. 449 § 1.)

## § 6317 Cease and desist orders and injunctive relief [For application of this section, see 79 Del. Laws, c. 161, § 5]

In addition to the legal remedies provided for in this chapter, the Division of Motor Vehicles is authorized to issue cease and desist orders

to any person, corporation, partnership, proprietorship or other legal entity who violates this chapter. The Division is also authorized to file a complaint for injunctive relief with the Court of Chancery upon notice that a cease and desist order is violated. The Chancery Court is authorized to award attorney fees and costs to the Division if a preliminary or permanent injunction is granted by the court. Nothing herein shall prevent the Attorney General from seeking any other civil remedy or criminal sanction for any conduct constituting a violation of this chapter.

(71 Del. Laws, c. 449 § 1; 79 Del. Laws, c. 161 § 2.)

## § 6318 Penalties.

(a) Whoever violates any provision of this chapter shall be guilty of an unclassified misdemeanor and shall be fined not less than $50 nor more than $575.

(b) Subsection (a) of this section shall not apply to violations for which penalties are prescribed elsewhere in this title.

(36 Del. Laws, c. 10 § 49; Code 1935 § 5587; 21 Del. C. 1953 § 6306; 68 Del. Laws, c. 9 § 56; 71 Del. Laws, c. 449 § 1; 73 Del. Laws, c. 407 § 1.)

# Part IV
# Miscellaneous
# Chapter 64
# ODOMETERS

## § 6401 Findings; purpose.

The General Assembly hereby finds that purchasers when buying motor vehicles rely heavily on the odometer reading as an index of the condition and value of such vehicle; that purchasers are entitled to rely on the odometer reading as an accurate reflection of the mileage actually traveled by the vehicle; that an accurate indication of the mileage traveled by a motor vehicle assists the purchasers in determining its safety and reliability; and that motor vehicles move in the current of interstate and foreign commerce or affect such commerce. It is therefore the purpose of this chapter to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers.

(62 Del. Laws, c. 255 § 1.)

## § 6402 Definitions.

As used in this chapter:

(1) "Dealer" or "dealership" means any person, corporation, partnership or limited partnership who has sold 5 or more motor vehicles within the 12 months preceding the date of a violation of this chapter.

(2) "Lessee" means any person, or the agent for any person, who has leased for a term of at least 4 months.

(3) "Lessor" means any person, or the agent for any person, who has leased 5 or more motor vehicles in the past 12 months.

(4) "Mileage" means actual distance that a vehicle has traveled.

(5) "Odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; but shall not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.

(6) "Repair and replacement" means to restore to a sound working condition by replacing the odometer or any part thereof by correcting what is inoperative.

(7) "Secure printing process or other secure process" means any process which deters and detects counterfeiting and/or unauthorized reproduction and allows alterations to be visible to the naked eye.

(8) "Transfer" means to change ownership of a motor vehicle by purchase, gift or any other means.

(9) "Transferee" means any person to whom ownership in a motor vehicle is transferred by purchase, gift or other means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee.

(10) "Transferor" means any person who transfers ownership of a motor vehicle by sales, gift or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferor.

(62 Del. Laws, c. 255 § 1; 69 Del. Laws, c. 113 § 1.)

## § 6403 Unlawful devices.

No person shall advertise for sale, sell, use or install or cause to be installed, any device which causes an odometer to register any mileage other than the true mileage traveled by a motor vehicle. For purposes of this section, the true mileage traveled by a motor vehicle is that mileage traveled by a motor vehicle as registered by the odometer within the manufacturer's designed tolerance.

(62 Del. Laws, c. 255 § 1.)

## § 6404 Unlawful change of mileage.

(a) Unless otherwise provided in § 6406 of this title, no person shall disconnect, reset or alter or cause to be disconnected, reset or altered, the odometer of any motor vehicle.

(b) Unless otherwise provided in § 6406 of this title, no person shall disconnect, reset or alter or cause to be disconnected, reset or altered, the odometer of any motor vehicle with intent to change the number of miles indicated thereon.

(62 Del. Laws, c. 255 § 1.)

## § 6405 Possession with intent to defraud.

No person shall, with intent to defraud, possess a motor vehicle knowing that the odometer of such vehicle is disconnected or nonfunctional.

(62 Del. Laws, c. 255 § 1.)

## § 6406 Lawful service, repair or replacement.

(a) Nothing in this chapter shall prevent the service, repair or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before

such service, repair or replacement, the odometer shall be adjusted to read "0" and a notice in writing shall be attached to the left door frame of the vehicle by the owner or the owner's agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced.

(b)(1) No person shall fail to adjust an odometer or affix a notice regarding such adjustment as required pursuant to subsection (a) of this section.

(2) No person shall, with intent to defraud, remove or alter any notice affixed to a motor vehicle pursuant to subsection (a) of this section.

(62 Del. Laws, c. 255 § 1; 70 Del. Laws, c. 186 § 1.)

## § 6407 Disclosure of odometer information.

(a) Each Delaware title, at the time it is issued to the transferee, must contain the mileage disclosed by the transferor when ownership of the vehicle was transferred and contain a space for the information required to be disclosed under subsections (c)-(f) of this section at the time of any future transfer.

(b) Any documents which are used to reassign a title shall contain a space for the information required to be disclosed under subsections (c)-(f) of this section at the time of transfer of ownership.

(c) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title. This written disclosure must be signed by the transferor, including the transferor's printed name. In connection with the transfer of ownership of a motor vehicle in which more than 1 person is a transferor, only 1 transferor need sign the written disclosure. In addition to the signature and printed name of the transferor, the written disclosure must contain the following information:

(1) The odometer reading at the time of transfer (not to include tenths of miles);

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model, year and body type and its vehicle identification number.

(d) In addition to the information provided under subsection (c) of this section, the statement shall refer to the federal law and shall state that failing to complete or providing false information may result in a fine and/or imprisonment. Reference may also be made to applicable state law.

(e) In addition to the information provided under subsections (c) and (d) of this section:

(1) The transferor shall certify that to the best of the transferor's knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects a total mileage in excess of the designed mechanical odometer limit, the transferor shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading otherwise differs from the actual mileage and that the difference is greater than that caused by odometer calibration error, the transferor shall include a statement that the odometer reading does not reflect the actual mileage, and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and actual mileage.

(f) The transferee shall sign the disclosure statement, print the transferor's name, and return a copy to the transferor.

(g) If the vehicle has not been titled or if the title does not contain a space for the information required, the written disclosure shall be executed as a separate document.

(h) No person shall sign an odometer disclosure statement as both the transferor and the transferee in the same transaction, unless permitted by §§ 6410 and 6411 of this title.

(62 Del. Laws, c. 255 § 1; 69 Del. Laws, c. 113 § 2; 70 Del. Laws, c. 186 § 1.)

## § 6408 Exemptions.

Notwithstanding the requirements of § 6407 of this title:

(1) A transferor or lessee of any of the following motor vehicles need not disclose the vehicle's odometer mileage:

a. A vehicle having a gross vehicle weight rating of more than 16,000 pounds;

b. A vehicle that is not self-propelled;

c. A vehicle that is 10 years old or older; or

d. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

(2) A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(3) A lessor of any of the vehicles listed in paragraph (1) of this section need not notify the lessee of these vehicles of the disclosure requirements of § 6409 of this title.

(69 Del. Laws, c. 113 § 4.)

## § 6409 Disclosure of odometer information for leased motor vehicles.

(a) Before executing any transfer of ownership document, each lessor of a leased motor vehicle shall notify the lessee in writing that the

lessee is required to provide a written disclosure to the lessor regarding the mileage. This notice shall contain a reference to the federal law and shall state that failing to complete or providing false information may result in a fine and/or imprisonment. Reference may also be made to applicable state law.

(b) In connection with the transfer of ownership of a leased motor vehicle, the lessee shall furnish to the lessor a written statement regarding the mileage of the vehicle. This statement must be signed by the lessee and, in addition to the information required by subsection (a) of this section, shall contain the following information:

(1) The printed name of the person making the disclosure;

(2) The current odometer reading (not to include tenths of miles);

(3) The date of the statement;

(4) The lessee's name and current address;

(5) The lessor's name and current address;

(6) The identity of the vehicle, including its make, model, year, body type and its vehicle identification number;

(7) The date that the lessor notified the lessee of the disclosure requirements;

(8) The date that the completed disclosure statement was received by the lessor; and

(9) The signature of the lessor.

(c) In addition to the information provided under subsections (a) and (b) of this section:

(1) The lessee shall certify that to the best of the lessee's knowledge the odometer reading reflects the actual mileage;

(2) If the lessee knows that the odometer reading reflects a total mileage in excess of the designed mechanical odometer limit, the lessee shall include a statement to that effect; or

(3) If the lessee knows that the odometer reading otherwise differs from the actual mileage and that the difference is greater than that caused by odometer calibration error, the lessee shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

(d) If the lessor transfers the leased vehicle without obtaining possession of it, the lessor may indicate on the title the mileage disclosed by the lessee does not reflect the actual mileage of the vehicle.

(69 Del. Laws, c. 113 § 4; 70 Del. Laws, c. 186 § 1.)

## § 6410 Disclosure of odometer information by power of attorney.

(a) If the transferor's title is physically held by a lienholder, or if the transferor to whom the title was issued by the State has lost the title and the transferee obtains a duplicate title on behalf of the transferor, and if otherwise permitted by State law, the transferor may give a power of attorney to the transferee for the purpose of mileage disclosure. The power of attorney shall be on a form issued by the State to the transferee that is set forth by means of a secure printing process or other secure process, and shall contain in part A, a space for the information required to be disclosed under subsections (b)-(e) of this section. If a state permits the use of a power of attorney in the situation described in § 6411(a) of this title, the form must also contain, in part B, a space for the information required to be disclosed under § 6411 of this title, and, in part C, a space for the certification required to be made under § 6412 of this title.

(b) In connection with the transfer of ownership of a motor vehicle, each transferor to whom a title was issued by the State whose title is physically held by a lienholder or whose title has been lost, and who elects to give the transferee a power of attorney for the purpose of mileage disclosure, must appoint the transferee as the transferor's attorney-in-fact for the purpose of mileage disclosure and disclose the mileage on the power of attorney form issued by the State. This written disclosure must be signed by the transferor, including the printed name, and contain the following information:

(1) The odometer reading at the time of transfer (not to include tenths of miles);

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model, year, body type and vehicle identification number.

(c) In addition to the information provided under subsection (b) of this section, the power of attorney form shall refer to the federal odometer law and state that providing false information or the failure of the person granted the power of attorney to submit the form to the State may result in a fine and/or imprisonment. Reference may also be made to applicable state law.

(d) In addition to the information provided under subsections (b) and (c) of this section:

(1) The transferor shall certify that to the best of the transferor's knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects mileage in excess of the designed mechanical odometer limit, the transferor shall include a statement to the effect; or

(3) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by a calibration error, the transferor shall include a statement the odometer reading does not reflect the actual mileage and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form, print the transferee's name, and return a copy of the power of attorney form to the transferor.

(f) Upon receipt of the transferor's title, the transferee shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed by the transferor on the power of attorney form to the state that issued it, with the application for new title and the transferor's title. If the vehicle is sold out-of-state or reassigned to another dealer, a copy of the front and back of the title must be made after the dealership completes the disclosure. This copy of the title and § 1 of the odometer power of attorney must be returned to the Delaware Division of Motor Vehicles. If the mileage disclosed on the power of attorney form is lower than the mileage appearing on the title, the power of attorney is void and the dealer shall not complete the mileage disclosure on the title.

(69 Del. Laws, c. 113 § 4; 70 Del. Laws, c. 186 § 1.)

## § 6411 Power of attorney to review title documents and acknowledge disclosure.

(a) In circumstances where part A of a secure power of attorney form has been used pursuant to § 6410 of this title, and if otherwise permitted by State law, a transferee may give a power of attorney to the transferor to review the title and any reassignment documents for mileage discrepancies, and if no discrepancies are found, to acknowledge disclosure on the title. The power of attorney shall be on part B of the form referred to in § 6410(a) of this title, which shall contain a space for the information required to be disclosed under subsections (b)-(e) of this section and, in part C, a space for the certification required to be made under § 6412 of this title.

(b) The power of attorney must include a mileage disclosure from the transferor to the transferee and must be signed by the transferor, including the printed name, and contain the following information:

(1) The odometer reading at the time of transfer (not to include tenths of miles);

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model year, body type and vehicle identification number.

(c) In addition to the information provided under subsection (b) of this section, the power of attorney form shall refer to the federal odometer law and state that providing false information or the failure of the person granted the power of attorney to submit the form to the State may result in a fine and/or imprisonment. Reference may also be made to applicable State law.

(d) In addition to the information provided under subsections (b) and (c) of this section:

(1) The transferor shall certify that to the best of the transferor's knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects mileage in excess of the designed mechanical odometer limit, the transferor shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by a calibration error, the transferor shall include a statement that the odometer reading does not reflect the actual mileage and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form, and print the transferee's name.

(f) The transferor shall give a copy of the power of attorney form to the transferee.

(69 Del. Laws, c. 113 § 4; 70 Del. Laws, c. 186 § 1.)

## § 6412 Certification by person exercising powers of attorney.

(a) A person who exercises a power of attorney under both §§ 6410 and 6411 of this title must complete a certification that the person has disclosed on the title document the mileage as it was provided to the person on the power of attorney form, and that upon examination of the title and any reassignment documents, the mileage disclosure made on the title pursuant to the power of attorney is greater than that previously stated on the title and reassignment documents. This certification shall be under part C of the same form as the powers of attorney executed under §§ 6410 and 6411 of this title and shall include:

(1) The signature and printed name of the person exercising the power of attorney;

(2) The address of the person exercising the power of attorney; and

(3) The date of the certification.

(b) If the mileage reflected by the transferor on the power of attorney is less than that previously stated on the title and any reassignment documents, the power of attorney shall be void.

(69 Del. Laws, c. 113 § 4; 70 Del. Laws, c. 186 § 1.)

## § 6413 Access of transferee to prior title and power of attorney documents.

(a) In circumstances in which a power of attorney has been used pursuant to § 6410 of this title, if a subsequent transferee elects to return to the transferee's transferor to sign the disclosure on the title when the transferor obtains the title and does not give the transferor a power of attorney to review the title and reassignment documents, upon the transferee's request, the transferor shall show to the transferee a copy of the power of attorney received from the previous transferor.

(b) Upon request of a purchaser, a transferor who was granted a power of attorney by the previous transferor and who holds the title to the vehicle in the transferor's own name, must show to the purchaser the copy of the previous owner's title and the power of attorney form.

(69 Del. Laws, c. 113 § 4; 70 Del. Laws, c. 186 § 1.)

## § 6414 Odometer disclosure statement retention.

(a) Dealers and distributors of motor vehicles who are required by this chapter to execute an odometer disclosure statement shall retain for 5 years a photostat, carbon or other facsimile copy of each odometer mileage statement which they issue and receive. All odometer disclosure statements shall be retained at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(b) Lessors shall retain each odometer disclosure statement which they receive from a lessee for a period of 5 years following the date they transfer ownership of the leased vehicle. All odometer disclosure statements shall be retained at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(c) Dealers and distributors of motor vehicles who are granted a power of attorney by their transferor pursuant to § 6410 of this title, or by their transferee pursuant to § 6411 of this title shall retain for 5 years a photostat, carbon or other facsimile copy of each power of attorney that they receive. They shall retain all powers of attorney at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(69 Del. Laws, c. 113 § 4.)

## § 6415 Odometer record retention for auction companies.

Each auction company shall establish and retain at its primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval, for 5 years following the date of sale of each motor vehicle, the following records:

(1) The name of the most recent owner (other than the auction company);

(2) The name of the buyer;

(3) The vehicle identification number; and

(4) The odometer reading on the date which the auction company took possession of the motor vehicle.

(69 Del. Laws, c. 113 § 4.)

## § 6416 Security of title documents.

Each title shall be set forth by means of a secure printing process or other secure process. In addition, any other documents which are used to reassign the title shall be set forth by a secure process.

(69 Del. Laws, c. 113 § 4.)

## § 6417 Review of disclosure statements.

(a) All disclosure statements and motor vehicles in the possession of a dealer shall be made available for review upon demand by the Division of Motor Vehicles or by its authorized agents.

(b) The Secretary shall have the authority to promulgate regulations for administering this chapter.

(69 Del. Laws, c. 113 § 4.)

## § 6418 Responsibilities of motor vehicle dealers.

(a) No motor vehicle dealer, licensed in accordance with this title and Title 30 shall purchase or accept any motor vehicle unless the seller has indicated the mileage on a disclosure statement pursuant to this chapter.

(b) No licensed motor vehicle dealer shall have in possession as inventory for sale any used motor vehicle for which the dealer does not have in possession the disclosure statement required under this chapter.

(c) A licensed motor vehicle dealer reassigning or transferring a certificate of ownership shall not be guilty of a violation of this section if such dealer has in possession the disclosure statement as required by this chapter and if the dealer has no knowledge that the statement is false and that the odometer does not reflect the vehicle's actual mileage.

(69 Del. Laws, c. 113 § 4; 70 Del. Laws, c. 186 § 1.)

## § 6419 Documents acceptable as odometer disclosure statements.

(a) Except as provided in subsections (b) and (c) of this section, any Delaware certificate of title issued which includes the odometer disclosure information, as prescribed by this chapter, shall satisfy all the requirements for issuance of odometer disclosure statements by dealers licensed in the State.

(b) Nothing in this section shall exempt a dealer and/or dealership from complying with the provisions of § 6418 of this title.

(c) Any manufacturer's statement of origin accompanying an "original application for a Delaware certificate of title" shall satisfy the requirements of the odometer disclosure statement as provided in this chapter.

(69 Del. Laws, c. 113 § 4.)

## § 6420 Penalties; jurisdiction.

(a) Any person who violates any of the provisions of § 6404(a) of this title, shall be fined not less than $10 nor more than $100.

(b) Any person who violates any provisions in this chapter except § 6404(a) of this title shall be guilty of a misdemeanor and shall be fined not less than $1,000 nor more than $5,000 for each such violation. Any person who is guilty of a second or subsequent violation of this chapter except § 6404(a) of this title shall be fined not less than $2,000 nor more than $10,000 for each subsequent violation.

(c) In the case of a first offense by a dealer or dealership, such dealer or dealership may be placed on probation as a licensed Delaware

motor vehicle dealer by the Division of Motor Vehicles for a period of 1 year. Any violation of this chapter by a dealer or dealership during any year of probation may result in the suspension of the license of the dealer or dealership for a period not exceeding 1 year.

(d) In the case of a second or subsequent violation of this chapter by a dealer or dealership, the Division of Motor Vehicles may suspend the license and/or privileges of the dealer or dealership for a period not to exceed 1 year.

(e) Common Pleas Court shall have jurisdiction violations of this chapter.

(69 Del. Laws, c. 113 § 4.)

# Part IV
# Miscellaneous
# Chapter 65
# TRACTION ENGINES AND TRACTORS

**§§ 6501 -6521. Definitions; registration and license to operate; application for registration; issuance of registration certificate and tag; registration of manufacturers and dealers; application; issuance of certificate and number tags; expiration of registration upon transfer or destruction; registration of another vehicle by original owner; registration fees; display of number tags; refusal or revocation of license or permit; appeal; display of lights; equipment and weight; attached vehicles permitted; limitation; weight of attached vehicle and load; stopping and weighing of vehicles; permit for excess weight; permit for moving extra-heavy engines, loads or objects; permits to move vehicles without tires; limitation on regulations respecting unreasonable weights and use of highways; power to exempt from liability for damages to highways; speed limitations; stopping on meeting or passing horse-drawn vehicles; allowing overtaking vehicles to pass; applicability of traffic laws; penalty.**

(300 effective July 2 1992..)

# Part IV
# Miscellaneous
# Chapter 67
# THEFT, UNAUTHORIZED USE AND DAMAGE TO MOTOR VEHICLES
## Subchapter I
## General Provisions

### § 6701 Injuring vehicle or obstructing its operation.

No person shall, individually or in association with 1 or more others, wilfully break, injure, tamper with or remove any part or parts of any vehicle for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle or shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of such vehicle.

(36 Del. Laws, c. 10 § 30; Code 1935 § 5568; 21 Del. C. 1953 § 6701.)

### § 6702 Driving vehicle without consent of owner.

(a) No person shall drive another person's vehicle without the consent of the owner thereof, and with intent temporarily to deprive the owner of possession of such vehicle, but without intent to steal the vehicle. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person.

(b) Whoever violates this section shall be fined not less than $115 nor more than $575, or imprisoned not more than 90 days, or both; for each subsequent like offense the person shall be fined not less than $230 and imprisoned for not less than 30 days nor more than 2 years.

(36 Del. Laws, c. 10 § 28; 37 Del. Laws, c. 10 § 9; Code 1935 § 5566; 21 Del. C. 1953 § 6702; 53 Del. Laws, c. 358; 68 Del. Laws, c. 9 § 58; 70 Del. Laws, c. 186 § 1.)

### § 6703 Tampering with vehicle.

No person shall, without the consent of the owner or person in charge of a vehicle, climb into or upon such vehicle with the intent to commit any crime, malicious mischief or injury thereto or, while a vehicle is at rest and unattended, attempt to manipulate any of the levers, starting crank or other starting device, brakes or other mechanism thereof or to set the vehicle in motion.

This section shall not apply when any such act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(36 Del. Laws, c. 10 § 31; Code 1935 § 5569; 21 Del. C. 1953 § 6703.)

### § 6704 Receiving or transferring stolen vehicle; penalty.

Whoever, with intent to procure or pass title to a motor vehicle or vehicle which the person knows or has reason to believe has been stolen, receives or transfers possession of the same from or to another or has in possession any motor vehicle or vehicle which the person knows or has reason to believe has been stolen and who is not an officer of the law engaged at the time in the performance of duty as such officer, is guilty of a felony and shall be fined not less than $575 nor more than $5,750, or imprisoned not less than 1 year nor more than 5 years or both.

(36 Del. Laws, c. 10 §§ 29, 33; Code 1935 §§ 5567, 5571; 21 Del. C. 1953 § 6704; 57 Del. Laws, c. 547; 68 Del. Laws, c. 9 § 60; 70 Del. Laws, c. 186 § 1.)

### § 6705 Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity; penalty.

(a) A person who wilfully removes to falsify or falsifies an identification number of a vehicle, a bicycle or an engine for a vehicle is guilty of a misdemeanor.

(b) A person who wilfully and with intent to conceal or misrepresent the identity of a vehicle, a bicycle or engine removes or falsifies an identification number of the vehicle or engine is guilty of a felony.

(c) A person who buys, sells, receives, possesses or disposes of a vehicle, a bicycle or an engine of a vehicle, knowing that an identification number of the vehicle or engine has been removed or falsified, is guilty of a misdemeanor.

(d) A person who buys, sells, receives, possesses or disposes of a vehicle, a bicycle or an engine for a vehicle, with knowledge that an identification number of the vehicle or engine has been removed or falsified and with intent to conceal or misrepresent the identity of the vehicle or engine, is guilty of a felony.

(e) A person who removes a license/registration plate from a vehicle or affixes to a vehicle a license/registration plate not authorized by law for use on it, in either case with intent to conceal or misrepresent the identity of the vehicle or its owner, is guilty of a misdemeanor.

(f) An identification number may be placed on a vehicle, a bicycle or engine by its manufacturer in the regular course of business or placed or restored on a vehicle, a bicycle or engine by authority of the Division without violating this section; an identification number so placed or restored is not falsified.

(g) No person, unless duly authorized by the Director of the Division of Motor Vehicles or an agent of the Director, shall remove or alter a license/registration plate from any motor vehicle, trailer or semitrailer, or part thereof, or have in possession any motor vehicle, trailer or semitrailer, or part thereof, where the license/registration has been removed without first obtaining permission, in writing, from the said Director.

(h) Whoever is found guilty of a misdemeanor under this section shall be fined not less than $57.50 nor more than $575, or imprisoned not less than 30 days nor more than 6 months or both. Whoever is found guilty of a felony under this section shall be fined not less than $575 nor more than $5,750, or imprisoned not less than 1 year nor more than 5 years or both. Superior Court shall have jurisdiction. In addition to any fine levied for conviction of theft under this section, the defendant shall be ordered to pay restitution to the victim of the theft.

(36 Del. Laws, c. 10 §§ 44, 50; Code 1935 §§ 5582, 5588; 21 Del. C. 1953 § 6705; 57 Del. Laws, c. 544; 58 Del. Laws, c. 202; 63 Del. Laws, c. 60 §§ 1-6, 8; 68 Del. Laws, c. 9 § 61; 71 Del. Laws, c. 61 §§ 1, 2.)

## § 6706 Seizure of vehicle where number is altered or removed.

(a) Any member of the State Highway Police or any automobile inspector shall summarily seize in the name of the State and take from any person, other than the rightful owner thereof, any motorcycle or motor vehicle or other vehicle in the person's possession, if the manufacturer's serial number or any other manufacturer's trade or distinguishing number or identification mark has been removed and effaced, changed, covered or destroyed or wherever there is reasonable grounds to believe such serial number, trade number or other distinguishing number or identification mark has been removed and effaced, changed, covered or destroyed. The officer making the seizure shall at once deliver the motorcycle or motor vehicle or other vehicle to the Secretary of Safety and Homeland Security (hereinafter "Secretary") who may hold the motor vehicle or other vehicle until the Secretary has determined the true owner thereof. Upon such determination, the Secretary shall notify the true owner that the Secretary has such motorcycle or motor vehicle or other vehicle in possession, and the Secretary shall deliver the same to such owner upon payment to the Secretary of the cost of the delivery.

(b) The Secretary of Safety and Homeland Security shall hold in possession any motorcycle or motor vehicle or other vehicle seized under subsection (a) of this section for at least 10 days after such seizure, during which time the person from whom the vehicle was taken shall have the right to replevy it.

(c) If, at the end of 10 days, the person from whom the said vehicle or engine has been seized fails to provide the Director of the Division of Motor Vehicles, or 1 of the Director's authorized agents, sufficient proof of the origin and the ownership of a vehicle and the origin of its engine, the vehicle or engine shall be considered abandoned and disposed of pursuant to Chapter 44 of this title.

(36 Del. Laws, c. 10 § 140; Code 1935 § 5678; 42 Del. Laws, c. 167 § 2; 21 Del. C. 1953 § 6706; 57 Del. Laws, c. 546 §§ 1-3; 57 Del. Laws, c. 670 § 20; 59 Del. Laws, c. 543 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 111, 112.)

## § 6707 Penalty.

(a) Whoever violates this chapter shall be fined not less than $28.75 nor more than $115, or imprisoned not less than 30 days nor more than 90 days or both. For each subsequent like offense the person shall be fined not less than $115 nor more than $230, or imprisoned not less than 90 days nor more than 6 months or both.

(b) This section shall not apply to violations for which a specific punishment is provided in this chapter.

(36 Del. Laws, c. 10 § 32; 37 Del. Laws, c. 10 § 10; Code 1935 § 5570; 21 Del. C. 1953 § 6707; 68 Del. Laws, c. 9 § 59; 70 Del. Laws, c. 186 § 1.)

## § 6708 Possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card; class E felony; penalty.

(a) No person, unless duly authorized by the Director of the Division of Motor Vehicles, shall have in possession any blank certificate of title, blank registration card, blank vehicle identification plate, warranty sticker or vehicle inspection card.

(b) No person, unless duly authorized by the Director of the Division of Motor Vehicles, shall sell or deliver any blank certificate of title, blank registration card, vehicle identification plate, warranty sticker or vehicle inspection card.

(c) Any person found guilty of the violation of this section shall be guilty of a class E felony as the same is defined in Chapter 42 of Title 11 and shall be sentenced in accordance therewith.

(59 Del. Laws, c. 542 § 1; 70 Del. Laws, c. 186 § 1.)

## § 6709 Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers; penalty; class E felony.

(a) No person, unless duly authorized by the Director of the Division of Motor Vehicles or an agent of the Director, shall remove or alter a vehicle identification plate, warranty or certification sticker or confidential vehicle identification number from any motor vehicle, trailer or semitrailer, or part thereof, or have in possession any motor vehicle, trailer or semitrailer, or part thereof, where the vehicle identification plate, warranty or certification sticker or confidential vehicle identification number has been removed without first obtaining permission, in

writing, from the said Director.

(b) Any person found guilty of the violation of this section shall be guilty of a class E felony as the same is defined in Chapter 42 of Title 11 and shall be sentenced in accordance therewith.

(59 Del. Laws, c. 557 § 1; 70 Del. Laws, c. 186 § 1.)

### § 6710 Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers; penalty; class E felony.

(a) No person shall have in possession an assigned certificate of title, registration card, vehicle identification plate or warranty sticker or deliver for sale any assigned certificate of title, registration card, vehicle identification plate or warranty sticker unless such motor vehicle document is accompanied by 75% of the vehicle described on the assigned certificate of title, registration card, vehicle identification plate or warranty sticker.

(b) Any person found guilty of a violation of this section shall be guilty of a class E felony as the same is defined in Chapter 42 of Title 11 and shall be sentenced in accordance therewith.

(59 Del. Laws, c. 558 § 1; 70 Del. Laws, c. 186 § 1.)

## Subchapter II

## Salvage Yards

### § 6715 Rebuilt motor vehicles.

If any vehicle being kept in a motor vehicle salvage yard or junkyard is rebuilt and application is made for a negotiable title to the vehicle, said vehicle shall be examined by members of the State Police Auto Theft Unit or by a person designated by the Director of the Division of Motor Vehicles prior to the issuance of any negotiable title to such vehicle.

(59 Del. Laws, c. 544 § 1.)

### § 6716 Administrative inspections and warrants.

(a) Any person engaged in the business of maintaining or operating a motor vehicle salvage yard, junkyard or automotive graveyard, or who is a dealer in used motor vehicle parts, or the employees of such person or business, shall admit any police officer acting within the officer's jurisdiction onto the premises after the police officer has been identified as such. Upon entrance, the police officer is empowered to examine any junk or salvage motor, vehicle or parts thereof, all books and records required to be kept pursuant to this subchapter and buildings and may search for and take into possession any junk or salvage motor vehicle or part thereof if it is known to have been stolen or if the police officer has reason to believe it has been stolen.

(b) Insurance and execution of administrative search warrants shall be as follows:

(1) Any person authorized to issue search warrants in this State may, within the person's jurisdiction and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this chapter and rules hereunder and seizures of property appropriate to the inspection. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter and rules hereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of a designated police officer having knowledge of the facts alleged, sworn to before the judge or the justice of the peace and establishing the grounds for issuing the warrant. If the judge or the justice of the peace is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge or the justice of the peace shall issue a warrant identifying the area, premises, building or conveyance to be inspected, the purpose of the inspection and, if appropriate, the type of property to inspect, if any. The warrant shall:

a. State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

b. Be directed to a person designated as a police officer to execute it;

c. Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

d. Identify the item or types of property to be seized, if any;

e. Direct that it be served during normal business hours and designate the judge or justice of the peace to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing of the need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. A return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the premises of the person executing the warrant and of the person from whose possession or premises the property was taken, if present at the time, or in the presence of at least 1 credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom

or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or justice of the peace who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the prothonotary in the county in which the inspection was made.

(5) This section shall not prevent the inspection without a warrant of books and records required to be kept pursuant to statute or the areas designated by this section, nor does it prevent any entries and administrative inspections, including seizures of property without a warrant:

a. If the owner/operator or agent in charge of the controlled premises consents; or

b. In all other situations in which a warrant is not constitutionally required.

(59 Del. Laws, c. 534 § 1; 70 Del. Laws, c. 186 § 1.)

# Part IV
# Miscellaneous
# Chapter 68
# REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES

## § 6801 OHV registration — Required.

(a) Except as hereinafter provided, no person shall operate any off-highway vehicle within the State unless such vehicle has been registered in accordance with this chapter. Such registration shall not permit the vehicle to be operated on any highway except as hereinafter specifically provided. No person shall sell an OHV without furnishing the buyer a bill of sale.

(b) Proof of such registration shall be available for inspection upon demand by any peace, environmental protection or law-enforcement officer; however, the operator shall be allowed 24 hours to produce the registration card before a conviction can be obtained under this chapter, such registration having been legally issued at a time prior to the operator's arrest.

(c) Snowmobiles are excluded from this chapter.

(61 Del. Laws, c. 142 § 6; 66 Del. Laws, c. 222 §§ 1, 2; 70 Del. Laws, c. 186 § 1.)

## § 6802 OHV registration — Application; issuance.

Application for registration shall be made to the Department or their authorized agent as provided for in Chapter 21 of this title in such form and in such manner as the Department shall prescribe and shall state the name and address of every owner and be signed by at least 1 owner. Upon receipt of the application and the appropriate fee as provided in § 6803 of this title, such OHV shall be registered and a registration number decal assigned which shall be affixed to the OHV in such manner as provided in § 6805 of this title. In the event that an off-highway vehicle sought to be registered or reregistered does not, after inspection and testing, comply with the provisions respecting equipment established by this chapter or by the regulations of the Department promulgated pursuant to this chapter, the Department may deny the issuance of a registration certificate.

(61 Del. Laws, c. 142 § 6.)

## § 6803 OHV registration — Fees.

(a) The fee for registration of each off-highway vehicle, other than those registered by a dealer or manufacturer pursuant to subsection (b) of this section, shall be $6.00 for 3 years. The fee for a duplicate registration certificate shall be $2.00. The fee for a duplicate registration number decal shall be $2.00. The fee for a transfer of registration certificate shall be $2.00. All fees shall be waived for OHVs owned and used by the United States, or other state or of this State or political subdivision thereof.

(b) OHVs owned by a licensed OHV dealer, as specified in § 6809 of this title, and operated for demonstration or testing purposes are exempt from a registration fee.

(61 Del. Laws, c. 142 § 6.)

## § 6804 OHV registration — Renewal of registration.

Every owner of an off-highway vehicle shall renew the registration in such manner as the Department shall prescribe, upon payment of the same registration fees provided in § 6803 of this title.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6805 OHV registration — Procedure.

(a) Upon receipt of the required fee and an application on forms prescribed by it, the Department shall issue to the applicant a registration certificate stating the registration number, the name and address of the owner and such other information as the Department deems necessary. The Department shall also issue 1 registration number decal per OHV. Such number decal shall contain reference to the State and the registration number and shall be of such size and displayed in such manner as prescribed by the Department. Records of the Department made or kept pursuant to this chapter shall be public records except as otherwise provided.

(b) Upon receipt of the required fee and an application form prescribed by it, the Department shall issue to the applying dealer or manufacturer 10 registration number decals with additional decals being available for a fee of $2.00 per decal.

(c) If a registration certificate or decal is lost or destroyed, the owner may apply for a duplicate on forms provided for by the Department accompanied by a fee of $2.00. Upon receipt of a proper application and the required fee, the Department shall issue a duplicate registration certificate or number decal to the owner.

(61 Del. Laws, c. 142 § 6.)

## § 6806 Surrender of registration certificate.

(a) The owner of an OHV shall notify the Department within 15 days if the OHV is destroyed or abandoned, stolen, sold or an interest therein transferred either wholly or in part to another person or if the owner's address no longer conforms to the address appearing on the registration certificate. The notice shall consist of a surrender of the registration certificate on which the proper information shall be noted

or written notice to the Department that the registration certificate has been stolen.

(b) When surrender of the certificate is because the OHV has been destroyed or abandoned or has been stolen, the Department shall cancel the certificate and enter such fact in its records. If the surrender is because of a change of address of the owner, the new address shall be recorded by the Department and a registration certificate bearing such information shall be returned to the owner. The transferee of a vehicle registered under this chapter, within 15 days after acquiring it, shall apply to the Department for transfer to the transferee of the registration certificate issued to the OHV, giving the transferee's name, address and the number of the vehicle and pay the Department a fee of $2.00. Upon receipt of the application and fee, the Department shall transfer the registration certificate issued for the OHV to the new owner. Unless the application is made and the fee paid within 15 days, the vehicle shall be deemed to be without a registration certificate and no person shall operate the OHV until a certificate is issued.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6807 Out-of-state OHV registration.

The Department shall issue a 1-year registration number decal, valid for the present calendar year, to out-of-state OHVs operated by a resident of a state or county where registration is not required. The fee for this decal shall be $6.00.

(61 Del. Laws, c. 142 § 6.)

## § 6808 Age requirements.

No application for an original certificate of registration shall be accepted by the Department from any person under 18 years of age unless said certificate is signed by at least 1 parent or guardian of said person, stating consent to said application.

(61 Del. Laws, c. 142 § 6.)

## § 6809 OHV dealer license required.

OHV dealers, as defined in § 101 of this title, shall be licensed by the Department in accordance with such rules and regulations as may be promulgated by the Secretary. A fee of $50 shall be assessed for such license which shall be valid for 3 years. OHV dealer licenses are not transferable and may be revoked for violation of such rules and regulations as may be specified for that privilege. OHV dealers shall be required to carry personal liability insurance in an amount at least equal to that required of dealers under no-fault insurance provisions or as otherwise specified by the Department.

(61 Del. Laws, c. 142 § 6.)

## § 6810 Exceptions and exemptions to OHV registration.

(a) A vehicle registered under this title, Title 23 (boats) or Title 2 (aircraft) is exempt from the registration provisions of this chapter.

(b) Registration is not required for an OHV which is operated exclusively in a special event upon a special area location of limited duration which is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(c) No registration hereunder shall be required for the following described off-highway vehicles:

(1) OHVs covered by a valid registration of another state or country and which have not been within this State for more than 15 consecutive days.

(2) OHVs being operated by a resident of a state or country which does not require off-highway vehicle registration and which have been issued a 1-year permit sticker as provided for in § 6807 of this title.

(61 Del. Laws, c. 142 § 6.)

## § 6811 Vehicle identification number.

(a) Beginning not later than January 1, 1978, a manufacturer of an OHV shall stamp or permanently affix to the frame or body members of the OHV an identifying number unique to that vehicle in an easily visible location. The vehicle identification number shall be entered on the registration certificate issued by the Department to the OHV owner.

(b) Possession of an OHV with an intentionally altered, defaced, or obliterated vehicle identification number is punishable by the penalties in § 6831 of this title.

(61 Del. Laws, c. 142 § 6; 68 Del. Laws, c. 9 § 63; 76 Del. Laws, c. 295 § 1.)

## § 6812 Special vehicles.

The owner of a specially constructed or reconstructed OHV may make application, accompanied by the required fees, in such form as may be prescribed by the Department, for a special vehicle identifying number. The owner shall furnish such information as will satisfy the Department that the person is the owner, whereupon the Department shall assign a special vehicle identification number for the vehicle. The owner shall cause said number to be affixed as directed by the Department. Such special number shall be regarded as the permanent vehicle identification number of said vehicle.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6813 Specific OHV dealer responsibilities for rented or leased OHVs.

(a) A dealer shall maintain in safe operating condition an OHV offered for rent or lease by the dealer. The dealer, the dealer's agents or employees shall explain the operation of the OHV being rented or leased and if the dealer, the dealer's agent or employee believes that

person to whom the OHV is to be rented or leased is not competent to operate the OHV with personal safety or safety to others, the dealer shall refuse to rent or lease such OHV.

(b) The Department shall require such insurance and compliance with such additional rules and regulations regarding rental or lease of OHVs as it may deem necessary.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6814 Operation of OHVs — Upon public highways, streets, sidewalks or rights-of-way; penalties for violation.

(a) OHVs shall not be operated upon a public highway or street or sidewalk or right-of-way thereof located within this State except under the following conditions:

(1) An OHV may be pushed across or along such public way provided such OHV is in neutral or that the power train is otherwise disengaged, and further provided that such use shall be in conformance with Chapter 41 of this title.

(2) An OHV may be operated on a street or highway located within this State for a special event of limited duration, conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction.

(b) A person convicted of a violation of any provision of subsection (a) of this section shall be punished by the penalties in § 6831 of this title.

(61 Del. Laws, c. 142 § 6; 65 Del. Laws, c. 112 §§ 1, 2; 65 Del. Laws, c. 398 § 1; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 295 § 2.)

## § 6815 Operation of OHVs — Excessive rate of speed.

A person shall not operate an OHV at a rate of speed which cannot be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance.

(61 Del. Laws, c. 142 § 6.)

## § 6816 Operation of OHVs — While under the influence or with a prohibited alcohol or drug content.

A person shall not operate an OHV while under the influence of alcohol, any drug, a combination of drugs and alcohol, or with a prohibited concentration of alcohol or illicit or recreational drugs as defined in § 4177 of this title. A violation of this section shall be an unclassified misdemeanor.

(1) When such operation is upon private property with the express permission of the person in control of the property or such operation is not upon public property, a public highway or street or sidewalk or right-of-way thereof, the penalty provisions of this chapter shall apply.

(2) The provisions of this section, § 6831, § 6832, or § 6833 of this title, or any other statute to the contrary notwithstanding, all provisions of § 4177 of this title and provisions of this Code related thereto shall be applicable to the operation of an OHV while under the influence of alcohol, any drug, a combination of drugs and alcohol, or with a prohibited concentration of alcohol or illicit or recreational drugs as defined in § 4177 of this title when such operation is upon private property without the express permission of the person in control of the property or such operation is upon public property, a public highway or street or sidewalk or right-of-way thereof located within this State.

(3) The provisions of this section, § 6831, § 6832, or § 6833 of this title, or any other statute to the contrary notwithstanding, all provisions of § 4177 of this title and provisions of this Code related thereto shall be applicable to the operation of an OHV while under the influence of alcohol, any drug, a combination of drugs and alcohol, or with a prohibited concentration of alcohol or illicit or recreational drugs as defined in § 4177 of this title when such operation causes physical injury, serious physical injury, or death to another person. Nothing in this section shall preclude conviction for a violation of either this section or § 4177 of this title and any offense as defined elsewhere in this Code.

(61 Del. Laws, c. 142 § 6; 77 Del. Laws, c. 60 § 17; 78 Del. Laws, c. 250 § 1.)

## § 6817 Operation of OHVs — Without lights.

A person shall not operate an OHV during the period after sunset until sunrise without displaying a lighted headlight and lighted taillight.

(61 Del. Laws, c. 142 § 6.)

## § 6818 Operation of OHVs — Without brakes.

A person shall not operate an OHV unless such OHV is equipped with a brake or similar device adequate to control the movement of and to stop and to hold such OHV.

(61 Del. Laws, c. 142 § 6.)

## § 6819 Operation of OHVs — In a manner causing damage or disturbance.

(a) A person shall not operate an OHV in a manner to cause excessive damages or disturbances of the land, wildlife or vegetative resources, or endanger, disturb or annoy other persons or property. Disturbance or annoyance of other persons shall be presumed if the operator has received either verbally or in written form notice of such annoyance or disturbance from the complaining party. However, nothing in this subsection shall be construed as prohibiting the operation of OHVs at a race track designed for the lawful racing of said vehicles.

(b) The operator of the OHV shall be held liable for any damage to private property, including, but not limited to, damage to trees, shrubs or growing crops, injury to living creatures or damage through OHV operation in a manner so as to maliciously create erosive or other ecological damage to private property. However, if the operator is a minor, the parents or legal guardian of the operator shall be held personally liable for any and all damage and/or injuries, including civil or criminal liability, caused by the minor in the operation of the OHV.

(c) The owner of such private property may recover from the person responsible nominal damages of not less than the amount of damage or injury.

(61 Del. Laws, c. 142 § 6; 68 Del. Laws, c. 424 § 1; 69 Del. Laws, c. 219 §§ 1, 2.)

## § 6820 Operation of OHVs — Without spark arrestor type muffler.

(a) A person shall not operate an OHV unless such OHV is equipped with a spark arrestor type muffler, in good working order and in constant operation, from which noise emission under 60% of the maximum RPM, measured at 50 feet at right angles from the vehicle path on a constant speed pass, by measurement does not exceed 88 DBA on a sound level meter which meets the requirements of ANSI-514197, using procedure and ancillary equipment therein described. During the test procedure, the ambient sound including wind effects due to sources other than the OHV being measured shall be at least 10 DBA lower than the anticipated level of the test OHV. A vehicle subject to this chapter, manufactured or assembled after January 1, 1978, and used, sold or offered for sale in this State shall conform to the noise emission levels of this chapter unless preempted by federal E.P.A. legislation.

(b) Competition vehicles shall be exempted from this section only while in competition.

(61 Del. Laws, c. 142 § 6.)

## § 6821 Operation of OHVs — On property.

(a) A person shall not operate an OHV upon any property in either public or private ownership without the express permission of the person in control of the property or knowingly in violation of any restrictions imposed on such use by the person in control of the property.

(b) Penalties. —

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

a. For the first offense, a fine of $100 and an impoundment of the OHV at time of conviction for up to 30 days, which may be suspended by the court.

b. For each subsequent offense, the OHV owner shall be fined $1,000 and the OHV will be impounded for a minimum of 60 days from date of conviction. A subsequent offense, before being punishable as such, shall have been committed within 24 months after commission of the first offense.

c. Under this section, the OHV will be returned to the owner once the fine and impoundment costs have been paid by the OHV owner or, if the fine is appealed, once the owner has complied with the court's decision or the court decides the owner and/or operator is not guilty of the offense under subsection (a) of this section. The owner will not be responsible for impoundment costs if found not guilty by the court.

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

(61 Del. Laws, c. 142 § 6; 73 Del. Laws, c. 305 § 1.)

## § 6822 Operation of OHVs — In violation of traffic controllers or traffic-control devices.

A person shall not operate an OHV in violation of instructions of any person authorized to direct, control or regulate traffic or in violation of any official traffic-control device applicable thereto.

(61 Del. Laws, c. 142 § 6.)

## § 6823 Operation of OHVs — Helmets.

(a) A person shall not operate a 2-wheel or 3-wheel OHV unless the operator and all passengers are wearing a protective helmet meeting U.S. Department of Transportation standards on their heads, with the chin straps properly fastened.

(b) A person under 18 years of age shall not operate any ATV unless the operator is wearing a protective helmet meeting U.S. Department of Transportation standards on his or her head, with the chin straps properly fastened. A person under 18 years shall not be a passenger on an ATV unless the passenger is wearing a protective helmet meeting U.S. Department of Transportation standards on his or her head, with the chin straps properly fastened.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1; 80 Del. Laws, c. 136 § 2.)

## § 6824 Operation of OHVs — By minors, incompetent persons or persons under mental or physical disabilities.

(a) A person less than 12 years of age may operate an OHV only if:

(1) The person is under the direct supervision of a person who is at least 18 years of age; or

(2) The person is on land owned by or under the control of the person's parent or legal guardian.

(b) Persons 12 years of age and older may operate an OHV without adult supervision provided such use is in compliance with all other provisions of this chapter.

(c) A parent or legal guardian shall not permit a child under the age of 12 to operate an OHV except under the direct supervision of an adult.

(d) The owner of an OHV shall not permit:

(1) The vehicle to be operated by a person under the age of 12 except under direct adult supervision.

(2) The vehicle to be operated by a person who is incompetent to operate such vehicle because of mental or physical disability or because of being under the influence of intoxicating liquor or controlled substance as defined by § 4177 of this title.

(e) No person under 18 years of age shall operate an ATV while carrying passengers, regardless of whether or not the vehicle was specifically designed by the manufacturer to carry passengers.

(f) No person under 18 years of age shall be a passenger on an ATV unless the ATV was specifically designed by the manufacturer to carry passengers and is being operated by an individual who is 18 years of age or older.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1; 80 Del. Laws, c. 136 § 3.)

## § 6825 Identification of persons operating OHVs upon public or private property.

Any person operating an OHV upon public or private property shall stop and give identification upon the request of the person in control of the property and shall promptly comply with such restriction as may be imposed or remove the OHV from the premises if requested to do so.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6826 Safety education program.

(a) The Department shall implement a comprehensive OHV information and safety education program which shall include the preparation and dissemination of information and safety advice to the public.

(b) In implementing a program which is established pursuant to this section, the Department shall cooperate with private organizations and associations, private and public corporations, the Department of Education, state and local parks and recreation departments, local governmental units and local and county law-enforcement agencies.

(61 Del. Laws, c. 142 § 6; 73 Del. Laws, c. 65 § 27.)

## § 6827 Accidents.

(a) The operator of an OHV involved in an accident resulting in an injury to another person or in a death shall immediately report such accident by the quickest available means of communication, to a State Police officer or the local law-enforcement officer for New Castle County or the municipality wherein the accident occurred.

(b) The operator of an OHV involved in an accident resulting in damage to private property, except that of the operator, shall notify the owner of said property within 48 hours of the occurrence of such accident.

(c) Accidents resulting only in injury to the operator and/or damage to the operator's personal equipment need not be reported.

(d) The operator of an OHV involved in an accident upon either public or private property, resulting in injury to or death of any person, shall immediately stop and remain at the scene of such accident and shall render to any person injured in the accident reasonable assistance in securing medical aid or transportation for the injured person or persons.

(e) This section shall not apply to accidents involving competition vehicles damaged while engaging in special or competition events.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6828 Enforcement of chapter.

Any peace, police or environmental protection officer, acting in the lawful performance of duty, shall be empowered to enforce this chapter.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1.)

## § 6829 Registration numbers or numbered decals as prima facie evidence.

In a proceeding for a violation of this chapter involving prohibited operation and conduct, the registration number or numbered decal displayed on an OHV shall constitute prima facie evidence that the owner of the vehicle was the person operating the vehicle at the time of the offense, unless the OHV committing the violation was in fact a stolen vehicle at the time of the violation.

(61 Del. Laws, c. 142 § 6.)

## § 6830 Unlawful for operators of OHVs to disobey command to stop.

It shall be unlawful for any operator of an OHV to wilfully disobey a signal to bring such OHV to a stop when such signal is given by hand, voice, emergency lights, siren or other visual or audible signal by a uniformed police, peace or environmental protection officer acting in the lawful performance of duty. A violation of this section shall be an unclassified misdemeanor with the penalties set forth in § 6831 of this title.

(61 Del. Laws, c. 142 § 6; 70 Del. Laws, c. 186 § 1; 77 Del. Laws, c. 60 § 18.)

## § 6831 Penalties.

A person convicted of a violation of any provision of this chapter is subject to the following penalties, unless otherwise provided for in

this chapter.

(1) For a first offense, a fine of $100 and impoundment for up to 100 days, at the expense of the owner, of the OHV at the time of conviction.

(2) For a subsequent offense that occurs within 24 months of a prior conviction of this chapter or of a similar off-highway vehicle state or local law, statute, or ordinance, a fine of $400 and impoundment for a mandatory minimum time period of 6 months, at the expense of the owner, of the OHV at the time of conviction.

(3) In addition to impoundment of an OHV upon conviction, a uniformed police, peace, or environmental protection officer acting in the lawful performance of duty may have an OHV towed and impounded if that law-enforcement officer has probable cause to believe that the OHV was used in violation of this chapter.

(61 Del. Laws, c. 142 § 6; 68 Del. Laws, c. 9 § 62; 70 Del. Laws, c. 186 § 1; 76 Del. Laws, c. 295 § 3.)

## § 6832 Jurisdiction.

The Courts of the Justices of the Peace shall have jurisdiction over violations of this chapter except that the Family Court shall have jurisdiction over violations of this chapter when such violation is committed by any person under the age of 18 years of age.

(61 Del. Laws, c. 142 § 6.)

## § 6833 Conflicts with other statutes.

Should any provision of this chapter conflict with other statutes, the provisions or requirements of this chapter shall apply.

(61 Del. Laws, c. 142 § 6.)

## § 6834 Rules and regulations.

The Secretary of Transportation may adopt and enforce such rules and regulations concerning off-highway vehicles and designate such agencies as may be necessary to carry out this chapter, provided such rules and regulations are not contrary to this chapter.

(61 Del. Laws, c. 142 § 6; 74 Del. Laws, c. 110 § 113.)

## § 6835 Civil liability.

Any other statute notwithstanding, a violation of § 6823 or § 6824 of this title shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim arising out of any ATV or OHV accident.

(80 Del. Laws, c. 136 § 4.)

# Part IV
# Miscellaneous
# Chapter 69
# REMOVAL OF MOTOR VEHICLES FROM PUBLIC HIGHWAYS BY POLICE

## § 6901 Removal of motor vehicles from public highways by police; sale of vehicles; towers.

(a) Any police officer of this State, or a county or municipality therein, while in the performance of duty, may remove, store or cause to be removed or stored from any public highway, highway right-of-way, street or alley, at the owner's or operator's expense, any motor vehicle, trailer or part thereof which:

(1) Is unregistered or has an expired registration; or

(2) Is parked or left standing in such manner as to create a hazard by interfering with the normal movement of traffic:

a. By preventing the exit from or entrance to any public highway, private road or driveway;

b. By interfering with emergency firefighting equipment;

c. By being involved in a collision and rendered incapable of being moved under its own power, when the owner or operator has been arrested and detained; or

d. When the owner or operator is unable, unwilling or not available to do so immediately.

Anyone so removing any motor vehicle, trailer or part thereof shall have a possessory lien against said motor vehicle, trailer or part thereof for the costs of removing, towing, preserving and storing said motor vehicle, trailer or part thereof and shall have a right to sell said motor vehicle, trailer or part thereof after complying with the notice and sale provisions as outlined in Chapter 39 of Title 25, with the exception that the proceeds of the sale shall be applied first to the costs of the sale, then to the costs of removing, towing, preserving and storing and then to the payment of any liens to which said motor vehicle, trailer or part thereof may be subject in order of their priority, then to the State Treasurer who shall create a special fund thereof and who shall pay to the owner the moneys left if a claim is made within 1 year of the removal, or deposit the moneys in the General Fund if no claim is made within 1 year of the removal.

There shall be no liability incurred by any police officer of this State or a county or municipality therein, or agents directed by them, whether or not they are also police officers, while in the performance of duty, for damages incurred to immobilized motor vehicle or vehicles moved under this subsection, or to the vehicle's contents or surrounding area caused by the emergency measures employed by the officer or employee to move the vehicle or vehicles for the purpose of clearing the lane or lanes to remove any threat to public safety, unless the circumstances meet the conditions for liability established in § 4001(2) or (3) or § 4011(c) of Title 10.

(b) In effecting the removal and subsequent storage of such vehicles, any police officer of this State, or a county or municipality therein, may select and engage the services, vehicles, equipment or facilities of another person, hereinafter called the "tower", who shall be compensated at the expense of the owner or operator. Such selection shall be made pursuant to the regulations promulgated under subsection (c) of this section.

(c) The Department of Safety and Homeland Security shall promulgate regulations governing the selection of towers by State Police officers. Such regulations shall prescribe qualifications for eligibility of towers to be selected by police officers under this section, shall describe the method to be used by police officers in selecting from eligible towers, and may make such other provisions as the Department of Safety and Homeland Security deems fit; provided, however, that there shall be no prohibitions against the owner of a vehicle from choosing the tower of that person's choice if no emergency exists. All eligible towers shall file with the Superintendent of the Delaware State Police a schedule of towing charges of such towers and other incidental charges of such tower customarily incurred in connection with the towing and storage of vehicles under the section.

(21 Del. C. 1953 § 6901; 55 Del. Laws, c. 340; 61 Del. Laws, c. 247 § 1; 61 Del. Laws, c. 367 § 3; 63 Del. Laws, c. 173 § 1; 63 Del. Laws, c. 355 § 1; 66 Del. Laws, c. 313 § 1; 70 Del. Laws, c. 186 § 1; 74 Del. Laws, c. 110 §§ 115, 138; 76 Del. Laws, c. 401 § 16.)

## § 6902 Notification to owner of removal of vehicle; disposal of removed vehicle.

(a) Anyone rendering services under this chapter or Chapter 44 of this title has the right to detain the vehicle or motor vehicle rendered services to, about or for, to secure the payment of such services and shall have a lien upon said vehicle or motor vehicle.

(b) The lienor shall, by certified mail, return receipt requested, notify the lienee of the towing charges and, if compensation for storage is claimed, the per diem rate of storage charges, and a statement that the lienee must pay such charges on or before the date mentioned in the notice, said date not to be less than 15 days from service thereof. Notice shall be sent to last known address of the lienee and secured party. If the identity of the last registered owner or secured party cannot be determined with reasonable certainty, the contents of the notice set forth in this subsection shall be published 1 time in the newspaper of general circulation in the area where the vehicle was removed. The notice may contain multiple listings of removed vehicles. Notice by publication locally shall be the responsibility of the lienor. The notice shall have the same effect as notice sent by certified mail.

(c) The lienor may, after the expiration of 15 days from date of notification, request the Division of Motor Vehicles to schedule a hearing to determine the intentions of the registered owner and/or secured party as to the disposition of said vehicle.

(1) Upon receiving such request the Division of Motor Vehicles shall, by certified mail, notify the owner of record if known and each

secured party as shown on the records of the Division of Motor Vehicles of the date and time of the hearing and the right to be present and contest said proposed disposition of such vehicle.

(2) The hearing officer of the Division of Motor Vehicles shall notify the lienor and the Delaware State Police Auto Theft Unit of the date and time of the hearing.

(3) If identity of the last registered owner and of all secured parties cannot be determined with reasonable certainty the Division of Motor Vehicles shall notify the Delaware State Police Auto Theft Unit.

(4) The nonappearance of the owner and/or secured party at the scheduled hearing is:

a. A waiver of all rights, title, interest in the vehicle; and

b. A consent to dispose of the vehicle.

(5) The hearing officer shall determine the disposition of the vehicle if there is no objection at the hearing and shall certify that all applicable regulations of the Division have been met. The owner and/or secured party shall have 15 days from the date of the hearing with the Division of Motor Vehicles to appeal such disposition of said vehicle to the Director of Motor Vehicles. If after 15 days the owner and/or secured party has not filed an appeal to the Director of the Division of Motor Vehicles, the Division of Motor Vehicles shall issue a salvage certificate of title to the lienor.

(6) If, however, the owner and/or secured party objects to the disposition of the vehicle at the hearing, further proceedings by the Division of Motor Vehicles shall cease and all parties will be notified of their right to file with a court of proper jurisdiction to seek judicial disposition.

(61 Del. Laws, c. 247 § 2; 70 Del. Laws, c. 186 § 1.)

# Part IV
# Miscellaneous
# Chapter 70
# FIRE LANES

## § 7001 Stopping, standing or parking in fire lanes; penalty.

(a) No person shall stop, stand or park a vehicle in any place which has been designated and properly identified as a fire lane wherever a curb is marked yellow or a yellow line is placed at the edge of a roadway or shoulder and where official traffic control devices prohibit stopping, standing or parking or in an area designated for a fire hydrant, standpipe or sprinkler connection, except in compliance with the directions of a police officer or traffic control device.

(b) Any person authorized to enforce this chapter is hereby authorized to remove or cause to be removed, and stored at the owner's expense, any unattended vehicle left standing wholly or partially within a fire lane or any unattended vehicle left standing in a location so as to cause an obstruction to the accessibility to a fire lane, fire hydrant or standpipe connection.

(c) The State Fire Marshal and the State Fire Marshal's deputies shall be authorized to enforce this chapter. Any fire officer in charge of firefighters of a fire company responding to, operating at or returning from a fire, service call or other emergency shall be authorized to enforce this chapter.

(d) This chapter shall apply upon highways and elsewhere throughout the State.

(e) A uniform parking summons may be attached to an unattended vehicle found in violation of this section by any person authorized to enforce this section.

(f) Whoever violates this section shall be assessed a civil penalty not less than $50 or more than $100.

(g) Any violation of this section or any municipal or county ordinance, code or regulation regulating parking in fire lanes shall be subject to a civil penalty only. Such violation shall not be classified as a criminal offense, shall not qualify as a prior conviction for purposes of § 4218(c)(1)f. of Title 11, whether or not such violation occurred prior to July 10, 2006, and shall not be made a part of the operating record of the person upon whom such civil penalty is imposed.

(h) Justice of the Peace Courts shall have jurisdiction of offenses under this section.

(62 Del. Laws, c. 135 § 1; 63 Del. Laws, c. 214 § 2; 63 Del. Laws, c. 350 §§ 1, 2; 68 Del. Laws, c. 9 § 64; 70 Del. Laws, c. 19 § 1; 70 Del. Laws, c. 186 § 1; 70 Del. Laws, c. 503 § 1; 75 Del. Laws, c. 405 §§ 14-18.)

## § 7002 Immunity for enforcement; exception.

No law-enforcement officer, fire officer in charge or the fire officer's delegate or fire marshal or fire marshal's deputy, enforcing this chapter, and no one who removes a vehicle from a prohibited area as described in this chapter or stores such a vehicle, having been directed to remove or store such vehicle by a person authorized to enforce this chapter, shall be liable for criminal prosecution for any conduct directly relating to the enforcement of this chapter or be liable to any person for negligence, resulting in the injury to or loss or destruction of any real or personal property if such negligence arises out of the enforcement of this chapter; provided, however, that such persons shall be liable for loss or destruction of any real or personal property caused by acts or omissions amounting to gross negligence or wilful or wanton misconduct.

(62 Del. Laws, c. 135 § 1; 70 Del. Laws, c. 186 § 1.)

## § 7003 Payment by voluntary assessment; presumptions; procedure for contesting; failure to pay or contest.

(a) Payment by voluntary assessment. — An owner or operator shall pay the amount on the summons to the voluntary assessment center listed on the summons. No court costs or other administrative fee shall be assessed if a civil penalty is paid by voluntary assessment. In lieu of payment, an owner or operator may notify the applicable voluntary assessment center, within the time period specified on the summons, that such owner or operator requests a hearing in the Justice of the Peace Court.

(b) Presumptions. —

(1) If any vehicle found to be in violation of this subchapter or any ordinance, code or regulation regulating stopping, standing or parking is unattended at the time the violation is discovered and the identity of the operator is not otherwise apparent, the person in whose name such vehicle is registered as the owner shall be held responsible for such violation, unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner:

a. Prior to the due date furnishes to the voluntary assessment center either:

1. An affidavit stating that the owner was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person, or company who leased, rented or otherwise had the care, custody or control of the vehicle; or

2. Attaches a certified copy of a police report showing that the vehicle or license plate(s) thereof had been reported to the police as stolen prior to the time of the alleged violation; or

b. Provides proof in court that the owner was not the operator of the vehicle at the time of the alleged violation.

(2) A summons may be issued by the prosecuting agency to a person identified by affidavit or evidence in court as the actual operator of the vehicle shown to have violated this chapter. There shall be a presumption that the person so identified as the driver. The presumption may be rebutted as described in this subsection.

(c) Procedure for contesting. —

(1) A request for a hearing must be made no later than the due date indicated on the summons, which date shall not be sooner than 20 days from the date the summons was issued.

(2) The voluntary assessment center shall notify the appropriate Justice of the Peace Court when a hearing is requested.

(d) Failure to pay or contest the violation. — If the owner or operator:

(1) Fails to respond to the summons on or before the due date in any of the manners permitted by this section, or

(2) Requests a hearing and fails to appear,

the Court may, upon motion, enter a default judgment against such owner or operator. However, when the default judgment is sought for a failure to respond to the summons, no default judgment shall be entered until notice by first class mail is sent by the Court to such owner or operator providing the owner or operator with 10 days to pay the civil penalty to the Court or request a hearing to contest the charge. A default judgment may include any applicable increases in the amount of the civil penalty for failure to timely pay or contest. The applicable city, county or state agency may seek execution on any judgment entered by the Court.

In addition, the applicable city, county or state agency may tow the vehicle if it is located in its jurisdiction and levy on it for the amount of unpaid tickets plus towing charges.

(75 Del. Laws, c. 405 § 19; 70 Del. Laws, c. 186 § 1.)

## § 7004 Enforcement by cadets appointed by the Superintendent of the State Police.

(a) The Superintendent of the State Police is hereby authorized to appoint cadets who shall have authority to enforce violations of this chapter within the unincorporated areas of each county. Cadets appointed pursuant to this section must be at least 18 years of age. The Superintendent may establish such other qualifications as are deemed necessary or desirable.

(b) A summons issued by a cadet appointed by the Superintendent pursuant to this section shall have the same force and effect as a summons issued by the State Police.

(c) The proceeds of any civil penalty collected from a summons issued by the State Police or a cadet appointed pursuant to this section shall be deposited into the General Fund.

(d) The authority of the State Police or a cadet appointed by the Superintendent to enforce this chapter shall not be limited by any jurisdictional agreement between the State Police and any local law-enforcement agency.

(71 Del. Laws, c. 287 § 2; 75 Del. Laws, c. 405 § 20.)

# Part IV
# Miscellaneous
# Chapter 71
# FUNERAL PROCESSIONS

## § 7101 Definitions.

(a) "Funeral director" and "funeral establishment" shall have the same meaning as set forth in § 3101 of Title 24.

(b) "Funeral escort" means a person or entity that provides escorts for funeral processions, including funeral home personnel, law-enforcement personnel and/or any other agency authorized by the Department of Safety and Homeland Security to operate emergency vehicles.

(c) "Funeral escort vehicle" means any motor vehicle that is properly equipped pursuant to § 7102 of this title [omitted] and which escorts a funeral procession.

(d) "Funeral lead vehicle" means any authorized law-enforcement vehicle, or non-law-enforcement motor vehicle properly equipped pursuant to § 7102 of this title [omitted] or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A hearse may serve as the funeral lead vehicle.

(e) "Funeral procession" means 2 or more vehicles, including a funeral lead vehicle or a funeral escort vehicle, accompanying the body of a deceased person or traveling to the church, chapel or other location where the funeral service or entombment is to be held.

(72 Del. Laws, c. 456 § 1; 74 Del. Laws, c. 110 § 138.)

## § 7102 [Omitted.]

(72 Del. Laws, c. 456 § 1.)

## § 7103 Driving in funeral processions.

(a) Pedestrians and operators of vehicles not part of a funeral procession shall not drive between, obstruct, hinder or in any way interfere with the vehicles of a funeral procession being led by a funeral lead vehicle or funeral escort vehicle.

(b) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(c) Any ordinance, law or regulation stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger shall not be applicable to vehicles in a funeral procession.

(d) Each vehicle which is part of a funeral procession shall have its headlights, either high or low beam, and tail lights activated, and except for funeral lead vehicles and funeral escort vehicles, must have the flashing hazard lights activated if the vehicle is so equipped.

(e) Funeral processions shall be subject to the following conditions and exceptions:

(1) Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible and/or visual signal.

(2) Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer.

(3) Operators in a funeral procession must exercise due care when participating in a funeral procession.

(72 Del. Laws, c. 456 § 1.)

## § 7104 Penalties.

Whoever violates this chapter shall be guilty of a moving violation, the penalty for which shall be prescribed by § 4205 of this title.

(72 Del. Laws, c. 456 § 1.)

# Part IV
# Miscellaneous
# Chapter 75
# AUTOMOTIVE RECYCLERS

## § 7501 Definitions.

As used in this chapter:

(1) "Automotive recyclers" means any person engaged in:

a. Dismantling, destroying or scrapping any vehicle for the purpose of resale of its used parts; or

b. Otherwise acquiring vehicles for the benefit of their usable parts; and

c. Notwithstanding any provision to the contrary, any reference to motor vehicle salvage yard, junkyard, automotive graveyard, wrecking and dismantling, salvage dealer or junk dealer in any statute or rule or regulation shall apply to an automotive recycler.

(2) "Department" means the Department of Transportation unless otherwise specified.

(3) "License" means any license issued by the Department of Transportation for the operation of an automotive recycler.

(4) "Person" means an individual, partnership or corporation.

(5) "Vehicle" means any vehicle or motor vehicle as defined in Chapter 1 of this title or body or chassis of any vehicle to be dismantled, destroyed, scrapped or resold.

(65 Del. Laws, c. 318 § 1; 74 Del. Laws, c. 110 §§ 116, 117.)

## § 7502 License requirements; exception.

(a) A person may not conduct the business of an automotive recycler or engage in the business of purchasing vehicles which are to be dismantled in whole or in part by that person for the sale of usable parts, or store vehicles more than 30 days that are to be dismantled unless said person is licensed under this chapter.

(b) This chapter does not prohibit an unlicensed person from transporting a vehicle to a licensed automotive recycler for dismantling, destroying or scrapping; or to a scrap processor in the business of selling iron, steel and nonferrous scrap for resmelting purposes; or apply to abandoned vehicles or vehicles left in the possession of a garage or service station for storage purposes only pursuant to Chapter 44 of this title.

(c) A person must possess a valid license issued by the Division of Revenue and if applicable a license issued pursuant to Chapter 12 of Title 17.

(d) Any other provision of this chapter notwithstanding, in a case in which an automotive recycler is also the owner or has an interest in a junkyard, the recycler must comply with all requirements of Chapter 12 of Title 17.

(65 Del. Laws, c. 318 § 1; 70 Del. Laws, c. 186 § 1.)

## § 7503 Location requirements.

A person may not be licensed to conduct an automotive recycler business under this chapter unless:

(1) The business is conducted from a building that is adequate and appropriate for automotive recycling as approved by the Division of Motor Vehicles;

(2) The business has a storage area for at least 25 vehicles, the area is properly fenced and screened and the automotive recycler has complied with all of the requirements of Chapter 12 of Title 17 and all rules and regulations adopted pursuant thereto;

(3) The location is properly zoned by the local zoning authority for the operation of an automotive recycler business;

(4) The business be at a fixed location, as specified in the license application; and

(5) There be a substantial and legible sign:

a. That advertises the type of business conducted at the location;

b. That is placed in a manner that is readily seen by the public; and

c. That is in conformance with all state and local regulations, laws and ordinances.

(65 Del. Laws, c. 318 § 1.)

## § 7504 Application for license.

The Department shall devise an automotive recycler license application which shall include the following:

(1) The name of the business;

(2) The address of the business; and

(3) If the business is a proprietorship, partnership or corporation, the names and addresses of all principals, partners or corporate officers and resident agents.

(65 Del. Laws, c. 318 § 1.)

## § 7505 Issuance of licenses.

The Department shall issue an "automotive recycler" license under this chapter to an applicant who is in compliance with this chapter and otherwise is entitled to a license.

(65 Del. Laws, c. 318 § 1.)

## § 7506 License fee and renewal.

(a) Each automotive recycler under this chapter shall pay an annual fee for each license issued in the amount of $100.

(b) A license issued under this chapter shall expire on December 31 of each year, and may be renewed by application and payment of license fees.

(65 Del. Laws, c. 318 § 1.)

## § 7507 Record of vehicles; inspections.

(a) Each automotive recycler shall keep accurate and complete records of all vehicles or motor vehicles acquired in the business. The records shall be maintained in an accessible place and shall contain the following information:

(1) The names and addresses of the person or persons from whom the vehicle was acquired and/or sold;

(2) The date of acquisition and sale of the vehicle; and

(3) Documentary evidence of ownership as required by the Department.

(b) During business hours, vehicles, parts thereof, and records and premises of the automotive recycler shall be open to inspection by the Department or any police officer while discharging official duties.

(65 Del. Laws, c. 318 § 1; 70 Del. Laws, c. 186 § 1.)

## § 7508 Refusal, suspension or revocation of license.

The Department may refuse to grant a license under this chapter to a person and may suspend, revoke or refuse to renew a license of any person if it finds that:

(1) The person has violated or is attempting to violate this chapter or any rule or regulation adopted by the Department under this chapter;

(2) The person has violated or is attempting to violate any other provisions of the Delaware Code that relate to the business activity of that person; or

(3) Any automotive recycler or employee has violated or is attempting to violate this chapter and any rule or regulation adopted under this chapter or any other provisions of the Delaware Code that relate to the business activities of the person unless the Department is satisfied that the management of the business:

a. Had no knowledge of the wrongful conduct; or

b. Was unable to prevent the violation or attempted violation.

(65 Del. Laws, c. 318 § 1.)

## § 7509 Hearing notice.

A license issued under this chapter may be suspended, revoked, refused or not renewed only after notice of hearing has been served upon the person or the person's representatives. Said hearing notice shall contain:

(1) All charges made against said person; and

(2) The date, approximate time and place of the hearing must be specified.

(65 Del. Laws, c. 318 § 1; 70 Del. Laws, c. 186 § 1.)

## § 7510 Hearing procedures.

All hearings shall conform to the provisions of the Administrative Procedures Act, Chapter 101 of Title 29.

(65 Del. Laws, c. 318 § 1.)

## § 7511 Judicial review.

Any aggrieved party to a hearing may appeal a decision or order of the Department to the Superior Court for review de novo.

(65 Del. Laws, c. 318 § 1.)

## § 7512 Penalty.

Any person who violates the provisions of this chapter relating to the requirements of licensing or the maintenance of vehicle records shall be guilty of a class B misdemeanor as the same is defined in Chapter 42 of Title 11, and shall be subject to the penalties prescribed therein.

(65 Del. Laws, c. 318 § 1.)

# Part IV

# Miscellaneous

# Chapter 80

# VEHICLE EQUIPMENT SAFETY COMPACT

## Subchapter I

## Vehicle Equipment Safety Compact

### § 8001 Vehicle Equipment Safety Compact.

(Repealed by 65 Del. Laws, c. 448 § 1, eff July 8, 1986.)

## Subchapter II

## Effectuation of Compact

### §§ 8011 -8018. Legislative findings; retention by General Assembly of authority; Secretary of Public Safety to be Commissioner; cooperation by state agencies; filing of documents; notices; submission of budget; inspection of accounts; Governor is executive head.

(Repealed by 65 Del. Laws, c. 448 § 1, eff July 8, 1986.)

# Part IV
# Miscellaneous
# Chapter 81
# DRIVER'S LICENSE COMPACT
## Subchapter I
## Driver's License Compact

### § 8101 Driver's License Compact.

The Driver's License Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

DRIVER'S LICENSE COMPACT

ARTICLE I

Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II

Definitions

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III

Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted, describe the violation specifying the section of the statute, code or ordinance violated, identify the court in which action was taken, indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond or other security and shall include any special findings made in connection therewith.

ARTICLE IV

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) of this article as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V

Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of 1 year from the date the license was revoked such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his or her state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

Entry Into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 6 months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(21 Del. C. 1953 § 8101; 54 Del. Laws, c. 241 § 1; 70 Del. Laws, c. 186 § 1.)

## Subchapter II

## Effectuation of Compact

### § 8111 Definitions.

As used in this chapter and in the compact with reference to this State:

(1) "Compact administrator" means the Secretary of Transportation.
(2) "Executive head" means the Governor.
(3) "Licensing authority" means the Department of Transportation.
(21 Del. C. 1953 § 8111; 54 Del. Laws, c. 241 § 1; 57 Del. Laws, c. 670 §§ 22A, 22B; 74 Del. Laws, c. 110 §§ 118, 119.)

## § 8112 Compensation of compact administrator.

The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of the compact administrator's service as such administrator but shall be entitled to expenses incurred in connection with the compact administrator's duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of the compact administrator's office or employment.
(21 Del. C. 1953 § 8112; 54 Del. Laws, c. 241 § 1; 70 Del. Laws, c. 186 § 1.)

## § 8113 Furnishing of information to other states.

The Department of Transportation shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV and V of the compact.
(21 Del. C. 1953 § 8113; 54 Del. Laws, c. 241 § 1; 57 Del. Laws, c. 670 § 22A; 74 Del. Laws, c. 110 § 120.)

# Part IV
# Miscellaneous
# Chapter 83
# COMMERCIAL DRIVER TRAINING SCHOOL LICENSING

## § 8301 Definitions.

As used in this chapter:

(1) "Commercial driver training school" or "school" means a business enterprise conducted by a person for the education and training of persons, either practically or theoretically, or both, to operate motor vehicles or to prepare an applicant for an examination given by the State for a driver's license or learner's permit and charging a consideration or tuition for such services.

(2) "Instructor" means any person, whether acting as operator of a commercial driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to or supervises practice of persons learning to operate or drive motor vehicles or preparing to take an examination for a driver's license or learner's permit, and any person who supervises the work of any other such instructor.

(21 Del. C. 1953 § 8301; 56 Del. Laws, c. 417 § 1; 65 Del. Laws, c. 77 § 8; 70 Del. Laws, c. 186 § 1.)

## § 8302 Enforcement by the Secretary.

(a) The Secretary shall adopt and prescribe such regulations concerning the administration and enforcement of this chapter as are necessary to carry out the intent of this chapter and to protect the public. The Secretary or the Secretary's authorized representative shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(b) The Secretary shall administer and enforce this chapter, and may call upon the Secretary of Education for assistance in developing and formulating appropriate regulations.

(21 Del. C. 1953 § 8302; 56 Del. Laws, c. 417 § 1; 57 Del. Laws, c. 670 § 30; 70 Del. Laws, c. 186 § 1; 73 Del. Laws, c. 65 § 28.)

## § 8303 License for schools; requirements.

(a) No commercial driver training school shall be established nor any such existing school continued after January 1, 1969, unless such school applies for and obtains from the Secretary a license in the manner and form prescribed by the Secretary.

(b) Regulations adopted by the Secretary shall state the requirements for a school license, including requirements concerning location, equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators and instructors, insurance in such sum and with such provisions as the Secretary deems necessary to protect adequately the interests of the public and such other matters as the Secretary may prescribe for the protection of the public.

(21 Del. C. 1953 § 8303; 56 Del. Laws, c. 417 § 1; 57 Del. Laws, c. 670 § 30.)

## § 8304 License for instructors; requirements.

(a) No person shall act as an instructor after January 1, 1969, unless such person applies for and obtains from the Secretary a license in the manner and form prescribed by the Secretary.

(b) Regulations adopted by the Secretary shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles and practices, previous personnel and employment records and such other matters as the Secretary may prescribe for the protection of the public.

(21 Del. C. 1953 § 8304; 56 Del. Laws, c. 417 § 1; 57 Del. Laws, c. 670 § 30.)

## § 8305 License fees.

All licenses shall expire on the last day of the calendar year and may be renewed upon application to the Secretary as prescribed by regulation. Each application for an original or renewal school license fee shall be accompanied by a fee of $115 and each application for an original or renewal instructor's license shall be accompanied by a fee of $50. No license fee shall be refunded in the event that the license is rejected, suspended or revoked.

(21 Del. C. 1953 § 8305; 56 Del. Laws, c. 417 § 1; 57 Del. Laws, c. 188 § 13; 57 Del. Laws, c. 670 § 30; 66 Del. Laws, c. 84 § 1; 67 Del. Laws, c. 260 § 1; 70 Del. Laws, c. 186 § 1.)

## § 8306 Issuance, renewal, suspension and revocation of licenses.

The Secretary may cancel, suspend, revoke or refuse to issue or renew a school or instructor's license in any case where the Secretary finds the licensee or applicant has not complied with or has violated any of the provisions of this chapter or any regulation adopted by the Secretary. Any canceled, suspended or revoked license shall be returned to the Secretary by the licensee, and its holder shall not be eligible to apply for a license under this chapter until 3 months have elapsed since the date of such suspension or revocation.

(21 Del. C. 1953 § 8306; 56 Del. Laws, c. 417 § 1; 57 Del. Laws, c. 670 § 30; 70 Del. Laws, c. 186 § 1.)

## § 8307 Exemptions.

This chapter shall not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their employees only. Driver education classes conducted by state colleges, universities and high schools and programs approved and contracted by the Department of Education are exempt from the licensing requirements of this chapter when the courses are taught by certified driver training teachers using curriculum approved by those institutions.

(21 Del. C. 1953 § 8307; 56 Del. Laws, c. 417 § 1; 74 Del. Laws, c. 18 §§ 1, 2.)

## § 8308 Penalties.

Violation of this chapter or any regulation promulgated pursuant thereto shall constitute a misdemeanor, and any person, firm or corporation upon conviction therefor shall be punished by a fine of not more than $115, or imprisonment for not more than 30 days or by both such fine and imprisonment.

(21 Del. C. 1953 § 308; 56 Del. Laws, c. 417 § 1; 68 Del. Laws, c. 9 § 65.)

# Part IV
# Miscellaneous
# Chapter 84
# NEW RECREATIONAL VEHICLE OR NEW RECREATIONAL TRAILER MANUFACTURER-DEALER AGREEMENTS [FOR APPLICATION OF THIS CHAPTER, SEE 79 DEL. LAWS, C. 161, § 5]

## § 8401 Legislative intent [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) The intent of the General Assembly is to protect the public health, safety, and welfare of the residents of the State by regulating the relationship among new recreational vehicle dealers, manufacturers, distributors, and suppliers; maintaining competition; and providing consumer protection and fair trade.

(b) The intent of the General Assembly is that the provisions of this chapter be applied to manufacturer-dealer agreements in regard to new recreational vehicles, or new recreational trailers, entered into on or after July 1, 2014.

(79 Del. Laws, c. 161 § 1.)

## § 8402 Definitions [For application of this section, see 79 Del. Laws, c. 161, § 5]

As used in this chapter, the following definitions apply:

(1) "Area of sales responsibility" means the geographical area, agreed to by the new recreational vehicle dealer and the manufacturer in the manufacturer-dealer agreement, within which the new recreational vehicle dealer has the exclusive right to display or sell the manufacturer's new recreational vehicles and new recreational trailers of a particular line-make to the retail public.

(2) "Distributor" means a person, firm, corporation, or business entity that purchases new recreational vehicles or new recreational trailers from a manufacturer for resale to new recreational vehicle dealers.

(3) "Factory campaign" means an effort on the part of a warrantor to contact new recreational vehicle or new recreational trailer owners or new recreational vehicle dealers in order to address a part or equipment issue.

(4) "Family member" means a spouse, child, grandchild, parent, sibling, niece, or nephew, or the spouse thereof.

(5) "Fifth-wheel trailer" means a vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use. A "fifth-wheel trailer" must be of such size and weight as to not require a special highway movement permit, and must be designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(6) "Folding camping trailer" means a vehicle that is mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

(7) "Line-make" means a specific series of new recreational vehicles or new recreational trailers that:

a. Are identified by a common series trade name or trademark;

b. Are targeted to a particular market segment, as determined by their decor, features, equipment, size, weight, and price range;

c. Have lengths and interior floor plans that distinguish the new recreational vehicles or new recreational trailers from other new recreational vehicles or new recreational trailers with substantially the same decor, equipment, features, price, and weight;

d. Belong to a single, distinct classification of new recreational vehicle or new recreational trailer types having a substantial degree of commonality in the construction of the chassis, frame, and body; and

e. The manufacturer-dealer agreement authorizes a new recreational vehicle dealer to sell.

(8) "Manufacturer" means a person, firm, corporation, or business entity that engages in the manufacturing of new recreational vehicles or new recreational trailers.

(9) "Manufacturer-dealer agreement" means a written agreement or contract entered into between a manufacturer and a new recreational vehicle dealer that fixes the rights and responsibilities of the parties and pursuant to which the new recreational vehicle dealer sells new recreational vehicles or new recreational trailers.

(10) "Motor home" means a motor vehicle designed to provide temporary living quarters for recreational, camping, or travel use. A "motor home" must contain at least 4 of the following permanently installed, independent life-support systems which meet the National Fire Protection Association standard for recreational vehicles:

a. A cooking facility with an on-board fuel source;

b. A potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;

c. A toilet with exterior evacuation;

d. A gas or electric refrigerator;

e. A heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine; or

f. A 110-125 volt electric power supply.

(11) "New recreational trailer" means a travel trailer, fifth-wheel trailer, or folding camping trailer which has not been titled.

(12) "New recreational vehicle" means a motorhome which has not been titled.

(13) "New recreational vehicle dealer" means a person, firm, corporation, or business entity who is engaged in the business of buying, selling, or exchanging new recreational vehicles or new recreational trailers.

(14) "Proprietary part" means any part manufactured by or for, and sold exclusively by, the manufacturer.

(15) "Supplier" means any person, firm, corporation, or business entity that engages in the manufacturing of new recreational vehicle or new recreational trailer parts, accessories, or components.

(16) "Transient customer" means a customer who is temporarily traveling through a new recreational vehicle dealer's area of sales responsibility.

(17) "Travel trailer" means a vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use. A "travel trailer" must be of such size and weight as to not require a special highway movement permit when towed by a motorized vehicle.

(18) "Warrantor" means any person, firm, corporation, or business entity, including any manufacturer or supplier that provides a written warranty to the consumer in connection with a new recreational vehicle or new recreational trailer, or parts, accessories, or components thereof. The term "warrantor" does not include service contracts, mechanical or other insurance, or extended warranties sold for separate consideration by a new recreational vehicle dealer or other person not controlled by a manufacturer.

(79 Del. Laws, c. 161 § 1.)

## § 8403 Written agreements and designated territories [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) A manufacturer or distributor may not sell a new recreational vehicle or new recreational trailer in this State to or through a new recreational vehicle dealer without having first entered into a written and signed manufacturer-dealer agreement with a new recreational vehicle dealer.

(b) A manufacturer or distributor shall designate the area of sales responsibility exclusively assigned to a new recreational vehicle dealer in a manufacturer-dealer agreement and may not change the area or contract with another new recreational vehicle dealer for the sale of the same line-make in the designated area during the duration of the agreement, except as provided for in § 6311(b) of this title.

(c) The area of sales responsibility may not be reviewed or changed without the consent of both parties for 1 year after the execution of the manufacturer-dealer agreement.

(d) Except as provided in subsection (e) of this section, a new recreational vehicle dealer may not sell a new recreational vehicle or new recreational trailer in this State without having first entered into a manufacturer-dealer agreement with a manufacturer or distributor which has been signed by both parties.

(e) A new recreational vehicle dealer may not be prohibited from selling a particular line-make after a manufacturer-dealer agreement has been terminated or not renewed under § 8404 of this title, if new recreational vehicles or new recreational trailers of the terminated line-make are not returned or required to be returned to the manufacturer. The new recreational vehicle dealer may continue to sell all-line makes that were subject to the manufacturer-dealer agreement and are currently in stock until those line-makes are no longer in the new recreational vehicle dealer's inventory.

(79 Del. Laws, c. 161 § 1.)

## § 8404 Termination, cancellation, nonrenewal, or alteration of a dealership [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) A manufacturer or distributor, directly or through any authorized officer, agent or employee, may not terminate, cancel, or fail to renew a manufacturer-dealer agreement without good cause. If the manufacturer or distributor with good cause terminates, cancels, or fails to renew the manufacturer-dealer agreement, § 8405 of this title does not apply.

(b) A manufacturer or distributor has the burden of showing good cause for terminating, canceling, or failing to renew a manufacturer-dealer agreement with a new recreational vehicle dealer. For purposes of determining whether there is good cause for the proposed action, any of the following factors may be considered:

(1) The extent of the affected new recreational vehicle dealer's penetration in the area of sales responsibility.

(2) The nature and extent of the new recreational vehicle dealer's investment in its business.

(3) The adequacy of the new recreational vehicle dealer's service facilities, equipment, parts, supplies, and personnel.

(4) The effect of the proposed action on the community.

(5) The extent and quality of the new recreational vehicle dealer's service under new recreational vehicle or new recreational trailer warranties.

(6) The new recreational vehicle dealer's failure to follow agreed-upon procedures or standards related to the overall operation of the dealership.

(7) The new recreational vehicle dealer's performance under the terms of its manufacturer-dealer agreement.

(c) Except as otherwise provided in this chapter, a manufacturer or distributor shall provide a new recreational vehicle dealer with at least 120 days prior written notice of termination, cancellation, or nonrenewal of the manufacturer-dealer agreement if the new recreational

vehicle dealer is being terminated, cancelled, or nonrenewed for good cause.

(1) The notice must state all reasons for the proposed termination, cancellation, or nonrenewal, and must further state that if, within 30 days following receipt of the notice, the new recreational vehicle dealer provides to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the new recreational vehicle dealer will then be entitled to the full 120-day notice period, commencing from the new recreational vehicle dealer's receipt of the manufacturer's or distributor's original notice to rectify the deficiencies. If the deficiencies are rectified within the 120-day notice period, the manufacturer's or distributor's notice is voided. If the new recreational vehicle dealer fails to provide the notice of intent to cure the deficiencies in the prescribed 30-day time period, the termination, cancellation, or nonrenewal takes effect 30 days after the new recreational vehicle dealer's receipt of the manufacturer's or distributor's original notice.

(2) The notice period may be reduced to 30 days if the manufacturer's or distributor's grounds for termination, cancellation, or nonrenewal are due to any of the following good cause factors:

a. A new recreational vehicle dealer being convicted of, or entering a plea of nolo contendere to, a felony;

b. The abandonment or closing of the business operations of the new recreational vehicle dealer for 10 consecutive business days unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the new recreational vehicle dealer has no control;

c. A significant misrepresentation by a new recreational vehicle dealer that materially affects the business relationship between the new recreational vehicle dealer and the manufacturer or distributor;

d. A suspension or revocation of a new recreational vehicle dealer's license, or refusal to renew the new recreational vehicle dealer's license, by the Division of Motor Vehicles;

e. A material violation of this chapter which the new recreational vehicle dealer does not cure within 30 days after written notice by the manufacturer or distributor; or

f. A declaration by a new recreational vehicle dealer of bankruptcy, insolvency, or the occurrence of an assignment for the benefit of creditors or bankruptcy;

(d) A new recreational vehicle dealer may terminate, cancel, or not renew its manufacturer-dealer agreement with a manufacturer or distributor with or without good cause by giving 30-days written notice. In the case of a new recreational vehicle dealer terminating, cancelling, or failing to renew a manufacturer-dealer agreement for good cause, the notice must state all the reasons for the proposed termination, cancellation, or nonrenewal, and must further state that if, within 30 days following receipt of the notice, the manufacturer or distributor provides to the new recreational vehicle dealer a written notice of intent to cure all claimed deficiencies, the manufacturer or distributor will then be entitled to a 90-day notice period commencing from the manufacturer's receipt of the new recreational vehicle dealer's original notice. If the deficiencies are rectified within the 90-day notice period, the new recreational vehicle dealer's notice is voided. If the manufacturer or distributor fails to provide the notice of intent to cure the deficiencies in the prescribed 30-day time period, the termination, cancellation, or nonrenewal takes effect 30 days after the manufacturer's or distributor's receipt of the new recreational vehicle dealer's original notice, unless the parties agree otherwise in writing.

(e) If the new recreational vehicle dealer terminates, cancels or fails to renew a manufacturer-dealer agreement without good cause, the provisions of § 8405 of this title do not apply. If the new recreational vehicle dealer terminates, cancels, or fails to renew the manufacturer-dealer agreement with good cause, § 8405 of this title applies. The new recreational vehicle dealer has the burden of showing good cause. Any of the following items are considered "good cause" for a proposed termination, cancellation, or nonrenewal action by the new recreational vehicle dealer:

(1) A manufacturer or distributor being convicted of, or entering a plea of nolo contendere to, a felony.

(2) The business operations of a manufacturer or distributor have been abandoned or closed for 10 consecutive business days, unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the manufacturer has no control.

(3) A significant misrepresentation by a manufacturer or distributor that materially affects the business relationship between the manufacturer and the new recreational vehicle dealer.

(4) A material violation of this chapter which the manufacturer or distributor does not cure within 30 days after written notice by the new recreational vehicle dealer.

(5) A declaration by a manufacturer or distributor of bankruptcy, insolvency, or the occurrence of an assignment for the benefit of creditors or bankruptcy.

(79 Del. Laws, c. 161 § 1.)

## § 8405 Repurchase of inventory [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) If a new recreational vehicle dealer terminates, cancels, or fails to renew a manufacturer-dealer agreement for good cause as defined in § 8404(e) of this title and the manufacturer fails to cure the claimed deficiencies as provided in § 8404(d) of this title, at the election of the new recreational vehicle dealer and within 45 days after termination, cancellation, or nonrenewal, the manufacturer shall, repurchase:

(1) All new, untitled recreational vehicles and recreational trailers that were acquired from the manufacturer or distributor within 12 months before the effective date of the notice of termination, cancellation, or nonrenewal that have not been used, except for demonstration purposes, and that have not been altered or damaged, at 100% of the net invoice cost, including transportation, less applicable rebates and discounts to the new recreational vehicle dealer. If any of the vehicles repurchased pursuant to this paragraph are

damaged, but do not trigger a consumer disclosure requirement, the amount due the new recreational vehicle dealer must be reduced by the cost to repair the vehicle. Damage prior to delivery to the new recreational vehicle dealer that is disclosed at the time of delivery will not disqualify repurchase under this provision.

(2) All undamaged accessories and proprietary parts sold to a new recreational vehicle dealer for resale within the 12 months prior to termination, cancellation, or nonrenewal, if accompanied by the original invoice, at 105% of the original net price paid to the manufacturer or distributor to compensate the new recreational vehicle dealer for handling, packing, and shipping the parts; and

(3) Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery at 100% of the new recreational vehicle dealer's net cost plus freight, destination, delivery, and distribution charges and sales taxes, if any, if the items were purchased by the new recreational vehicle dealer within 5 years before termination, cancellation, or nonrenewal upon the manufacturer's or distributor's request, and can no longer be used in the normal course of the new recreational vehicle dealer's ongoing business.

(b) The manufacturer or distributor shall pay the new recreational vehicle dealer within 30 days after receipt of the items returned pursuant to this section.

(79 Del. Laws, c. 161 § 1.)

## § 8406 Transfer of dealership; family succession [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) If a new recreational vehicle dealer desires to make a change in ownership by the sale of the business assets, stock transfer, or otherwise, the new recreational vehicle dealer shall give the manufacturer or distributor written notice at least 15 business days before the closing, along with all supporting documentation that may be reasonably required by the manufacturer or distributor to determine if an objection to the sale may be made. In the absence of a breach by the selling new recreational vehicle dealer of its manufacturer-dealer agreement or a provision of this chapter, the manufacturer or distributor may not object to the proposed change in ownership unless the prospective transferee:

(1) Has previously been terminated by the manufacturer for breach of its manufacturer-dealer agreement;

(2) Has been convicted of a felony or any crime of fraud, deceit, or moral turpitude;

(3) Lacks a license required by law;

(4) Does not have an active line of credit sufficient to purchase a manufacturer's or distributor's product; or

(5) Has undergone in the last 10 years bankruptcy, insolvency, a general assignment for the benefit of creditors, or the appointment of a receiver, trustee, or conservator to take possession of the transferee's business or property.

(b) If the manufacturer or distributor objects to a proposed change of ownership pursuant to subsection (a) of this section, the manufacturer or distributor shall give written notice of its reasons to the new recreational vehicle dealer within 10 business days after receipt of the new recreational vehicle dealer's notification and all supporting documentation. The manufacturer or distributor has the burden of proof with regard to its objection. If the manufacturer or distributor does not give timely notice of its objection, the change of ownership is deemed approved.

(c) It is unlawful for a manufacturer or distributor to fail to provide a new recreational vehicle dealer with an opportunity to designate, in writing, a family member as a successor to the dealership in the event of the death, incapacity, or retirement of the new recreational vehicle dealer. It is unlawful to prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated, or retired new recreational vehicle dealer, unless the manufacturer or distributor has provided to the new recreational vehicle dealer written notice of its objections within 10 days after receipt of the new recreational vehicle dealer's modification of the new recreational vehicle dealer's succession plan. In the absence of a breach of the manufacturer-dealer agreement, the manufacturer or distributor may object to the succession for the following reasons only:

(1) Conviction of the successor of a felony or any crime of fraud, deceit, or moral turpitude;

(2) Bankruptcy or insolvency of the successor during the past 10 years;

(3) Prior termination by the manufacturer or distributor of the successor for breach of a manufacturer-dealer agreement;

(4) The lack of an active line of credit for the successor sufficient to purchase the manufacturer's or distributor's product; or

(5) The lack of a license for the successor required by law.

(d) A manufacturer or distributor has the burden of proof regarding its objection under subsection (c) of this section. However, a family member may not succeed to a dealership if the succession involves, without the manufacturer's or distributor's consent, a relocation of the business or an alteration of the terms and conditions of the manufacturer-dealer agreement.

(79 Del. Laws, c. 161 § 1.)

## § 8407 Warranty obligations [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) A warrantor shall:

(1) Specify in writing to each of its new recreational vehicle dealers all new recreational vehicle dealer obligations, if any, for preparation, delivery, and warranty service on its products;

(2) Compensate the new recreational vehicle dealer for performing warranty service required of the new recreational vehicle dealer by the warrantor; and

(3) Provide the new recreational vehicle dealer with a schedule of compensation to be paid and the time allowances for the

performance of any work and service. The schedule of compensation must include reasonable compensation for diagnostic work as well as for warranty labor.

(b) Time allowances for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration are the actual wage rates being paid by the new recreational vehicle dealer, and the actual retail labor rate being charged by the new recreational vehicle dealers in the community in which the new recreational vehicle dealer is doing business. The compensation of a new recreational vehicle dealer for warranty labor may not be less than the lowest retail labor rates actually charged by the new recreational vehicle dealer for like nonwarranty labor, as long as such rates are reasonable.

(c) A warrantor shall reimburse a new recreational vehicle dealer for warranty parts at actual wholesale cost plus a minimum 30% handling charge and the cost, if any, of freight to return warranty parts to the warrantor.

(d) Warranty audits of new recreational vehicle dealer records may be conducted by the warrantor on a reasonable basis, and new recreational vehicle dealer claims for warranty compensation may not be denied except for cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud, or misrepresentation.

(e) A new recreational vehicle dealer shall submit warranty claims within 30 days after completing work.

(f) A new recreational vehicle dealer shall immediately notify a warrantor, verbally or in writing, if the new recreational vehicle dealer is unable to perform any warranty repairs within 10 days of receipt of verbal or written complaints from a consumer.

(g) A warrantor shall disapprove warranty claims in writing within 30 days after the work is completed and submitted by the new recreational vehicle dealer in the manner and form prescribed by the warrantor. Claims not specifically disapproved in writing within 30 days are construed to be approved and must be paid within 45 days after the work is completed and the claim submitted.

(h) It is a violation of this chapter for a warrantor to:

(1) Fail to perform any of its warranty obligations with respect to its warranted products;

(2) Fail to include, in written notices of factory campaigns to new recreational vehicle or new recreational trailer owners and new recreational vehicle dealers, the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to new recreational vehicle dealers to perform the campaign work. A warrantor may ship parts to a new recreational vehicle dealer to effect the campaign work, and, if the parts are in excess of the new recreational vehicle dealer's requirements, the new recreational vehicle dealer may return unused parts to the warrantor for credit after completion of the campaign;

(3) Fail to compensate any of its new recreational vehicle dealers for authorized repairs effected by the new recreational vehicle dealer of merchandise damaged in manufacture or transit to the new recreational vehicle dealer, if the carrier is selected by the warrantor, factory branch, distributor, or distributor branch;

(4) Fail to compensate any of its new recreational vehicle dealers in accordance with the schedule of compensation provided to the new recreational vehicle dealer pursuant to this section, if performed in a timely and competent manner;

(5) Intentionally misrepresent in any way to purchasers of new recreational vehicles or new recreational trailers that warranties with respect to the manufacture, performance, or design of the vehicle are made by the new recreational vehicle dealer as warrantor or co-warrantor; or

(6) Require a new recreational vehicle dealer to make warranties to customers in any manner related to the manufacture of the new recreational vehicle or new recreational trailer.

(i) It is a violation of this chapter for a new recreational vehicle dealer to:

(1) Fail to perform predelivery inspection functions, as specified by the warrantor, in a competent and timely manner;

(2) Fail to perform warranty service work authorized by the warrantor in a competent and timely manner on any transient customer's vehicle of the same line-make;

(3) Fail to accurately document the time spent completing each repair, the total number of repair attempts conducted on a single unit, and the number of repair attempts for the same repair conducted on a single vehicle;

(4) Fail to notify the warrantor within 10 days of a second repair attempt which impairs the use, value or safety of the vehicle;

(5) Fail to maintain written records, including a consumer's signature, regarding the amount of time a unit is stored for the consumer's convenience during a repair; or,

(6) Make fraudulent warranty claims or misrepresent the terms of a warranty.

(79 Del. Laws, c. 161 § 1.)

## § 8408 Indemnification [For application of this section, see 79 Del. Laws, c. 161, § 5]

Notwithstanding the terms of any manufacturer-dealer agreement, it is a violation of this chapter for:

(1) A warrantor to fail to indemnify and hold harmless its new recreational vehicle dealer against any losses or damages to the extent that the losses or damages are caused by the negligence or wilful misconduct of the warrantor. A new recreational vehicle dealer may not be denied indemnification for failing to discover, disclose, or remedy a defect in the design or manufacturing of a new recreational vehicle or new recreational trailer. A new recreational vehicle dealer may be denied indemnification if the new recreational vehicle dealer fails to remedy a known and announced defect in accordance with the written instructions of a warrantor for whom the new recreational vehicle dealer is obligated to perform warranty service. A new recreational vehicle dealer shall provide to a warrantor a copy of any

pending law suit in which allegations are made that are covered by the provisions of this paragraph within 10 days after receiving such suit. Notwithstanding anything to the contrary, this paragraph shall continue to apply even after the new recreational vehicle or new recreational trailer is titled.

(2) A new recreational vehicle dealer to fail to indemnify and hold harmless its warrantor against any losses or damages to the extent that the losses or damages are caused by the negligence or wilful misconduct of the new recreational vehicle dealer. A warrantor shall provide to a new recreational vehicle dealer a copy of any pending law suit or similar proceeding in which allegations are made that come within the provisions of this paragraph within 10 days after receiving such suit. Notwithstanding anything to the contrary, this paragraph shall continue to apply even after the new recreational vehicle or new recreational trailer is titled.

(79 Del. Laws, c. 161 § 1.)

## § 8409 Inspection and rejection by the dealer [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) If a new recreational vehicle or new recreational trailer is damaged prior to transit to a new recreational vehicle dealer or is damaged in transit to the new recreational vehicle dealer when the carrier or means of transportation has been selected by the manufacturer or distributor, the new recreational vehicle dealer shall notify the manufacturer or distributor of the damage within the timeframe specified in the manufacturer-dealer agreement and:

(1) Shall request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or to otherwise correct the damage; or

(2) Shall reject the vehicle within the timeframe set forth in subsection (d) of this section.

(b) If a manufacturer or distributor refuses or fails to authorize repair of damage pursuant to subsection (a) of this section within 10 days after receipt of notification, or if the new recreational vehicle dealer rejects the new recreational vehicle or new recreational trailer because of damage, ownership of the new recreational vehicle or new recreational trailer reverts to the manufacturer or distributor.

(c) A new recreational vehicle dealer shall exercise due care while the damaged new recreational vehicle or new recreational trailer is in the new recreational vehicle dealer's custody, but the new recreational vehicle dealer has no other obligations, financial or otherwise, with respect to the vehicle.

(d) The timeframe for inspection and rejection of a new recreational vehicle or new recreational trailer by a new recreational vehicle dealer must be part of the manufacturer-dealer agreement and may not be less than 2 business days after the physical delivery of the vehicle.

(e) A new recreational vehicle or new recreational trailer that has, at the time of delivery to a new recreational vehicle dealer, an unreasonable amount of miles on its odometer as determined by the new recreational vehicle dealer, may be subject to rejection by the new recreational vehicle dealer and reversion of the vehicle to the manufacturer or distributor. In no instance may a new recreational vehicle dealer deem an amount less than the distance between the new recreational vehicle dealer and the manufacturer's factory or a distributor's point of distribution, plus 100 miles, as unreasonable.

(79 Del. Laws, c. 161 § 1.)

## § 8410 Coercion of new recreational vehicle dealer prohibited [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) A manufacturer or distributor may not coerce or attempt to coerce a new recreational vehicle dealer to:

(1) Purchase a product that the new recreational vehicle dealer did not order;

(2) Enter into an agreement with the manufacturer or distributor; or

(3) Enter into an agreement that requires the new recreational vehicle dealer to submit its disputes to binding arbitration or otherwise waive rights or responsibilities provided under this chapter.

(b) As used in this section, the term "coerce" includes, but is not limited to, threatening to terminate, cancel, or not renew a manufacturer-dealer agreement without good cause; or threatening to withhold product lines that the new recreational vehicle dealer is entitled to purchase pursuant to the manufacturer-dealer agreement; or threatening to delay product delivery as an inducement to amending the manufacturer-dealer agreement.

(79 Del. Laws, c. 161 § 1.)

## § 8411 Mediation [For application of this section, see 79 Del. Laws, c. 161, § 5]

(a) A new recreational vehicle dealer, manufacturer, distributor, or warrantor injured by another party's violation of this chapter may bring a civil action to recover actual damages. The court may award reasonable attorneys' fees and costs to the prevailing party in such an action. Venue for any civil action authorized by this section is in the county in which the new recreational vehicle dealer's business is located. In an action involving more than 1 new recreational vehicle dealer, venue may be in any county in which any new recreational vehicle dealer that is a party to the action is located.

(b) Prior to bringing suit under this chapter, the plaintiff shall serve upon the offending party a written demand for mediation. Mediation must take place in accordance with this section; Chapter 77 of Title 6 does not apply.

(1) In the case of a manufacturer, distributor, or new recreational vehicle dealer, a demand for mediation must be served upon the other party via certified mail at the address stated within the manufacturer-dealer agreement between the parties. In the case of a different warrantor, the notice must be sent via certified mail to the address identified in the warrantor's warranty, with a copy to the manufacturer

or distributor.

(2) A demand for mediation must contain a brief statement of the dispute and the relief sought by the party filing the demand.

(3) Within 20 days after the date on which a demand for mediation is served, the parties shall mutually select an independent certified mediator and meet with that mediator for the purpose of attempting to resolve the dispute. The meeting place must be in this State in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or upon stipulation by both parties.

(4) The service of a demand for mediation under this section tolls the time for the filing of a complaint, petition, protest, or other action under this chapter until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or other action is filed before meeting with the mediator, the court shall enter an order suspending the proceeding or action until mediation has occurred, and, upon written stipulation by all parties to the proceeding or action that they wish to continue to mediate under this section, the court shall enter an order suspending the proceeding or action for as long a period as the court considers appropriate.

(5) The parties to the mediation shall bear their own costs for attorneys' fees and divide equally the cost of the mediator.

(c) In addition to the remedies provided in this section and notwithstanding the existence of any additional remedy at law, a manufacturer, distributor, warrantor, or new recreational vehicle dealer may make application to a court of competent jurisdiction for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person from acting as a new recreational vehicle dealer without being properly licensed, from violating or continuing to violate any of the provisions of this chapter, or from failing or refusing to comply with the requirements of this chapter or § 6311(b) of this title. An injunction must be issued without bond. A single act in violation of the provisions of this chapter is sufficient for a court to authorize the issuance of an injunction.

(79 Del. Laws, c. 161 § 1.)

## § 8412 Regulations [For application of this section, see 79 Del. Laws, c. 161, § 5]

The Division of Motor Vehicles shall have the authority to promulgate and adopt rules and regulations necessary to carry out the provisions of this chapter.

(79 Del. Laws, c. 161 § 1.)

# Part IV
# Miscellaneous
# Chapter 85
# LOCOMOTIVE IDLING

## § 8501 Purpose.

The General Assembly finds and determines that the people of this State are entitled to and should be ensured an environment free from the effects of nonessential idling of locomotives between 8 p.m. and 7 a.m., as such nonessential idling degrades the quality of their life, property, and environment.

(80 Del. Laws, c. 162 § 1.)

## § 8502 Definitions.

(1) "Idling" means the operation of the locomotive while it is stationary.

(2) "Law-enforcement officer" means a sworn member of a police force or other law-enforcement agency of this State, or of any county or municipality within this State, who is responsible for the prevention and detection of crime and the enforcement of the laws of this State, or the laws of any county or municipality within this State.

(3) "Person" means a company, corporation, association, firm, partnership, joint venture, or other legal entity. "Person" does not include individuals.

(80 Del. Laws, c. 162 § 1.)

## § 8503 Nonessential idling prohibited; defined.

(a) No person may permit the nonessential idling of a locomotive under its control or on its property between 8 p.m. and 7 a.m.

(b) Idling is nonessential if it is not a result of 1 or more of the following circumstances:

(1) Traffic conditions.

(2) The direction of a law-enforcement officer.

(3) The operation of defrosting, heating, or cooling equipment to ensure the health or safety of the driver or passenger.

(4) The operation of the primary propulsion engine for essential work-related mechanical or electrical operations other than propulsion .

(5) Required maintenance, servicing, repairing, diagnostics, or inspections.

(c) This section does not apply within the boundaries of property zoned for industrial activity by the county or municipality having jurisdiction over the property.

(80 Del. Laws, c. 162 § 1.)

## § 8504 Enforcement.

(a) Any law-enforcement officer in whose jurisdiction the locomotive, or any car attached to a locomotive, is located may enforce this chapter.

(b) The Superior Court shall have exclusive jurisdiction over offenses under this chapter.

(80 Del. Laws, c. 162 § 1.)

## § 8505 Penalties.

Any person who violates this chapter shall be punished by a fine of not less than $5,000 nor more than $10,000 for the first offense and not less than $10,000 nor more than $20,000 for each subsequent offense.

(80 Del. Laws, c. 162 § 1.)