

2200 Division of Motor Vehicles  
Driver Services

2208 Concerning Driver Improvement Problem Driver Program (Formerly Reg. No. 45)

1.0 Authority

The authority to promulgate this regulation is 21 Del.C. §302, 21 Del.C. §2733(a)(4) and 29 Del.C. §10115.

2.0 Purpose

The Highway Safety Program Standard for Driver Licensing, as adopted by the National Highway Traffic Safety Administration, requires each state to have a Driver Improvement Program to identify problem drivers and take actions to reduce the frequency of their involvement in traffic accidents and violations. The Driver Improvement Problem Driver Program is designed to identify problem drivers, to change the problem driver's behavior by providing information and training opportunities and, if necessary, to progressively impose sanctions as more convictions/points are accumulated on the driving record. The goal of the program is crash prevention. The steps in the program are geared to the seriousness of the driving record.

The Division of Motor Vehicles' Driver Improvement staff use these policy guidelines to initiate program requirements and impose license suspensions.

3.0 Applicability

This policy regulation interprets the following sections found in Title 21: Section 2722, Section 2733(b), (e), (j), Section 2755, Section 2756, Section 4166(d), (j), Section 4169, Section 4175, 4175a, Section 4172(a), (b), Section 4172A, Section 6702, and Chapter 81.

4.0 Substance Of Policy

- 4.1 Point System. The Division of Motor Vehicles shall identify problem drivers, educate and impose driver's license sanctions based upon a point system. Violations will be assessed points based up the following:

Violations

Speeding 1-9 miles per hour over posted limit	2
Speeding 10-14 miles per hour over posted limit	4
Speeding 15-19 miles per hour over posted limit	5
Speeding 20 or more miles per hour over posted limit	5*
Passing a Stopped School Bus	6*
Reckless Driving	6
Operation of a Vehicle Causing Death	6*
Aggressive Driving	6*
Disregarding Stop Sign or Red Light	3
Moving violation contained in Chapters 27, 41 or 42 of Title 21	2

\*May result in additional actions including suspension

4.2 Point Credits

- 4.2.1 A licensee who is convicted of a speeding violation from 1 – 14 miles per hour over the posted speed limit will not be assessed points for the first violation within any three (3) year period

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- provided the ticket is paid through the Voluntary Assessment Center or Alderman's Court recorded on the court disposition as a "guilty mail in".
- 4.2.2 Completion of the Defensive Driving Course (DDC), recognized by the Division of Motor Vehicles and approved by the Insurance Commissioner's Office will be entered on the licensee's driving record. The licensee shall have a 3-point credit entered on the licensee's driving record following satisfactory completion of the course. The licensee is responsible for enrollment scheduling and the payment of all fees associated with this course. DDC credit is effective on the date of course completion. DDC credit will not be applied retroactively once an action item is in effect.
- 4.2.3 The point credits listed in 4.2.2 shall not be considered when determining the eligibility of a school bus operator. To determine the point level for a school bus operator or applicant, use full point value, not calculated points, for the previous 3-year period.
- 4.2.4 A motor vehicle licensee shall have a one point credit entered on their driving record under the Division of Motor Vehicle Point System if a driver is convicted of a violation of 21 **Del.C.** §4176(a) or 21 **Del.C.** §4176(b) and at the time of arrest for that conviction all passengers including the driver of the vehicle were wearing seat belts. This credit shall remain on a driving record for a 1-year period. If a motor vehicle licensee has more than one conviction of 21 **Del.C.** §4176(a) or 21 **Del.C.** §4176(b) during this one year period, where at the time of arrest all passengers including the driver were wearing a seatbelt, the motor vehicle licensee shall not receive an additional one point credit on their driving record for each conviction. However, the one point credit on the driving record shall be extended for one year from the date of the last conviction.
- 4.3 Driver Improvement Problem Driver Program. A driver enters the Driver Improvement Problem Driver Program when the driver accumulates 8 calculated points based upon their driving record for the previous two years. At that time an advisory letter is sent to the driver. Studies show that early intervention with inexpensive actions reduce accidents and improve driving behavior.
- 4.4 Convictions received from other jurisdictions are posted to the Delaware driving record. The points will be assessed on these violations as though the offense was committed in this State in accordance with the Driver's License Compact.
- 4.5 The Aggressive Driving Committee, in accordance with the Office of Highway Safety Regulation 1202, must certify all behavior modification/attitudinal driving courses. The committee has the authority to designate alternative courses to comply with the requirements of this policy regulation.
- 4.6 The actions listed below occur as calculated points are accumulated during any 24-month period. The 24-month period is computed based upon the date of the offense and "slides" forward based upon that date. The driving record will record the actions taken. The Driver Improvement Section will conduct a record review at each step in the process and schedule interviews as necessary. The action items may be processed automatically without an interview. When the calculated points fall between the threshold limits, use the action items specified in the lower level. (Example: If the driver accumulates 9 points before any action is taken, send out an advisory letter as required when they accumulate 8 points.) If the driver accumulates 12 points before the advisory letter is sent, use the action item listed for drivers with 12 points.

**Calculated  
Points**

**Action Items**

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| 8  | Division of Motor Vehicles advisory letter is mailed to the driver. DDC credits will not impact the issuance of an advisory letter.   |
| 12 | Driver must complete an approved "behavior modification/attitudinal driving course" within 90 days after notification (unless extended by the Division). Failure to comply or upon preference of the driver, a mandatory 2 month suspension will be imposed in lieu of the program. |
| 14 | Mandatory 4 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.   |

- 16 Mandatory 6 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.
- 18 Mandatory 8 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.
- 20 Mandatory 10 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.
- 22 Mandatory 12 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.
- 4.7 Serious Speeding Violations. The Division of Motor Vehicles considers all speeding violations 20 miles per hour (MPH) or more above the posted speed limit to be a serious speeding violation that identifies the driver as a problem driver. The following actions will be taken:
  - 4.7.1 When a driver is convicted of a single speeding violation for driving 20-24 MPH over the posted limit and accumulated less than 12 calculated points, the Driver Improvement staff will review the driver's driving record and send the driver an advisory letter.
  - 4.7.2 When convicted of driving 25 MPH over the posted limit, the driver's license will be suspended for a mandatory period of 1 month. The suspension period will be increased by one month for each additional 5 MPH over the initial 25 MPH threshold. Note: The driver may elect to attend the "behavior modification/attitudinal driving course" in lieu of a license suspension if the driver was driving 25-29 MPH over the posted limit.
  - 4.7.3 Anyone convicted of driving 50 MPH or more over the posted speed or driving 100 MPH or more shall be suspended for a period of one year. The driver is not eligible for an occupational license during the first three months of the suspension period.
  - 4.7.4 To be eligible for reinstatement following a suspension for a serious speed violation the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement. However, drivers suspended in lieu of electing to attend the "behavior modification/attitudinal driving course" for speed violations 25 to 29 MPH over the posted limit are not required to complete the program at time of reinstatement.
- 4.8 Additional Sanctions Imposed by Statute or Policy:
  - 4.8.1 Passing a stopped school bus in violation of 21 **Del.C.** §4166(d). For the first offense, one-month driver's license suspension. For the second offense, six months suspension. For the third or more offenses, suspend the driver's license for twelve months.
  - 4.8.2 Driving in violation of a license restriction per 21 **Del.C.** §2722. For the first offense, send an advisory letter. Suspend the driver's license for one month for subsequent offenses.
  - 4.8.3 Speed exhibition violation per 21 **Del.C.** §4172(a)(d). One-month suspension for the first offense and one-year driver's license suspension for subsequent offenses.
  - 4.8.4 Spinning wheels violation per 21 **Del.C.** §4172(b). Send an advisory letter for the first offense. Suspend the driver's license for one year for second and subsequent offenses.
  - 4.8.5 Malicious mischief violations per 21 **Del.C.** §4172A. One-month driver's license suspension for the first offense. One-year suspension for the second and subsequent offenses.
  - 4.8.6 Knowingly permit an unlicensed person to operate a vehicle violation per 21 **Del.C.** §2755. Send an advisory letter for the first offense. Three-month driver's license suspension for the second and subsequent offenses.
  - 4.8.7 Driving without consent of the owner violation per 21 **Del.C.** §6702. One month driver's license suspension for the first offense and three month's suspension for the second and subsequent offenses.
  - 4.8.8 Driving during suspension or revocation violations per 21 **Del.C.** §2756. A conviction for driving during suspension or revocation shall extend the period of the suspension or revocation for a like

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period not to exceed 12 months. No driving authority will be permitted during the balance of the initial suspension or revocation period and the extended period. Any driving authority previously issued by the Division must be surrendered.

Note: For purposes of 4.8.3, 4.8.4 and 4.8.5 to be considered a subsequent offense, the violations must be under the same subsection and cannot be a combination of violations such as Sections 4172(a) and Section 4172(b). To be considered a second or subsequent offense, the convictions must be within the previous three years.

- 4.9 Occupational License. In the event of a suspension of a driver's license, the Division may issue an occupational license during the period of suspension if the applicant stipulates the suspension has created an extreme hardship. However, no such occupational license shall be issued if the applicant has two previous suspensions within the previous 3 years, or if the suspension is for physical and/or mental disability, if the suspension and/or revocation action is based on a fatal motor vehicle accident, or if the license is revoked for convictions of any crimes specified in Section 2732 of Title 21 even though it causes an extreme hardship. Any driver convicted of operating a motor vehicle in violation of the restrictions imposed by the occupational license shall immediately extend the suspension period for an additional like period not to exceed 12 months and shall direct the driver to surrender the driver's occupational license. No more than one occupational license under this policy shall be issued within any 12-month period.
- 4.10 Hardship licenses (21 **Del.C.** §2751) permit the operation of a motor vehicle between the driver's residence and place of employment and for operating a vehicle on the job as a part of the driver's employment.
- 4.11 Conditional and occupational licenses normally permit the operation of a motor vehicle between the driver's residence and place of employment, for operating a motor vehicle as a part of the driver's employment duties, to and from school and child/adult care facilities and for medical appointments.
- 4.12 Drivers suspended under this program are ineligible for an occupational license for one month. If the calculated point level reaches 15 or more points in a 24-month period, an occupational license will not be issued until the calculated points are less than 15 points.
- 4.13 Calculated Points. For the purposes of this regulation, calculated points are credited at full point value for the first twelve months from the date of the violation. After the initial 12 months have expired, the calculated points will be credited at (1/2) point value for the next 12 months. The Division will only take action based upon convictions accumulated within the 24-month period following the date of the offense.
- 4.14 Moving Violations. Those violations contained in 21 **Del.C.** Ch. 27, 41 and 42, excluding those violations that require mandatory suspension or revocation actions. Multiple violations occurring within a 24-hour period shall be considered individual violations for the purposes of this policy regulation.
- 4.15 Advisory Letter. The Division will send an advisory letter to those drivers who accumulate 8 calculated points or are convicted of speeding 20-24 MPH over the posted limit. The purpose of the advisory letter is to express our concern about the operator's driving habits and their impact upon highway safety. The letter will inform the driver about the Driver Improvement Problem Driver Program. An advisory letter may be sent for both point accumulations and excessive speed violations.
- 4.16 Record Review. The goal of the record review is to assess any problems the driver may have and require a course of action. The record review may result in a driver improvement interview/counseling session, medical or vision examination, knowledge and/or skills testing, restricted license, license suspension or the surrender of a license.
- 4.17 Interviews. The Driver Improvement staff may schedule the driver to attend an interview based upon the record review. The licensee may request an interview with a Driver Improvement Officer or staff member when notified of pending action against the licensee. The following issues are open to discussion:
  - 4.17.1 The driver may request an additional 90 days to complete a mandatory attendance at the "behavior modification/attitudinal driving course" or the driver may request a license suspension in lieu of attending the program. Any further delays in completing the program must be approved by the Driver Improvement Manager or the Chief of Driver Services.

- 4.17.2 The driver can present evidence that the convictions on the driver's driving record belong to another driver. If proven, the convictions will be removed.
  - 4.17.3 If the violation on record is under appeal by the court, the driver must submit a copy of the appeal bond and the violation will be removed from the driving record. If applicable, the suspension action resulting from this violation is to be removed from the driving record.
  - 4.17.4 The Driver Improvement staff may require the driver to complete a medical or vision examination, pass a knowledge or skill test or restrict the driver's driving privileges based upon the results of the interview.
- 4.18 This policy regulation shall have no effect on the revocation actions, medical qualifications or requirements, or suspension action required by statute unrelated to this policy.

**6 DE Reg. 524 (10/1/03)**

**7 DE Reg. 1017 (2/1/04)**

**5.0 Severability**

If any part of this rule is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed and the remaining portions of this rule shall remain in full force and effect under Delaware law.

**6.0 Effective Date**

The following regulations shall be effective 10 days from the date the order is signed and it is published in its final form in the Register of Regulations in accordance with 29 Del.C. §10118(e).

**9 DE Reg. 1988 (06/01/06)**