

1200 Office of Highway Safety

1202 Aggressive Drivers (Formerly Reg. No. 90)

1.0 Authority

This Regulation is adopted pursuant to 21 **Del.C.** Section 4175A and promulgated in accordance with 21 **Del.C.** Section 302 and with the procedures specified in the Administrative Procedures Act, 29 **Del.C.** Section 10115.

2.0 Purpose

This policy regulation establishes administrative procedures used to administer the aggressive driver program as outlined in 21 **Del.C.** Section 4175A. Aggressive driving is defined in terms of existing Title 21 offenses such as failure to yield, unsafe lane change, disregarding a traffic control device, failure to stop, following too closely, passing on a shoulder and speeding. Individuals convicted of three or more of these offenses as a result continuous conduct are guilty of aggressive driving and are subject to increased penalties. Offenders are required to complete, a course of instruction established by the Secretary of Public Safety to address behavior modification or attitudinal driving problems. The Secretary administers the course and programs, adopts rules and regulations therefor and establishes a fee schedule for enrollment in the programs that will not exceed the maximum fine that may be imposed under the statute.

3.0 Duties and Responsibilities

3.1 Duties and Responsibilities of the Division of Motor Vehicles.

3.1.1 When convicted of aggressive driving, the court will send the Division of Motor Vehicles' Driver Improvement Section a copy of the court order directing the driver to complete a course of instruction to address behavior modification or attitudinal driving problems and recommending suspension of the driver's license or driving privileges for failure to attend the course.

3.1.2 The driver is responsible for contacting the Division of Motor Vehicles Driver Improvement Section. That Division will provide them information concerning the course(s) established or approved by this State.

3.1.3 If the driver is licensed in another state, the driver may either attend an established course taught in Delaware or attend a similar course taught in their home state. The driver must submit documentation from the licensing agency or from the school providing the training outlining the length of the training, course syllabus, and any other information needed to evaluate the alternative course. The Aggressive Driving Committee will evaluate and approve or disapprove out of state courses. If the out of state licensed driver fails to contact the Division or to complete the course within 90 days, the Division will notify the convicting court. The court will hold a non compliance hearing and will, at its discretion, either issue a failure to comply order or will allow the driver/defendant to re enter the program. A copy of all non compliance orders issued will be forwarded to DMV for them to suspend the licensee's driving privileges pursuant to 21 **Del.C.** Section 2733(c). The Division will forward the failure to comply order to the state licensing agency in which the driver is licensed. If the licensee, through no fault of his own, is unable to complete the course within the 90 day period, the Driver Improvement Section may extend the required completion date by an additional 90 days upon written request.

3.1.4 If a Delaware licensed driver has not contacted the Division or has not completed the required course within 90 days after the conviction, the Driver Improvement Section will notify the convicting court. The court will hold a non compliance hearing and will, at its discretion, either issue a failure to comply order or will allow the driver/defendant to re enter the program. A copy of all non compliance orders issued will be forwarded to DMV for them to suspend the license. The Division will suspend their driver's license upon direction of the court pursuant to 21 **Del.C.** Section 2731(a). The license may be reinstated once the course is completed and the appropriate fees

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paid. An occupational license will not be issued during the period of the suspension. If the licensee, through no fault of his own, is unable to complete the course within the 90 day period, the Driver Improvement Section may extend the required completion date by an additional 90 days upon written request.

3.1.5 The Driver Improvement Section will notify the court when the aggressive driver completes the required training course.

3.2 Duties and Responsibilities of the Office of Highway Safety.

3.2.1 The Office of Highway Safety is responsible for organizing and managing the Aggressive Driver Committee.

4.0 Aggressive Driving Committee

4.1 The Aggressive Driver Committee ("Committee") membership is as listed in this subsection: The Committee members shall not be employed by or have any financial interest in the companies selected as providers.

4.1.1 Chairman, Director of the Office of Highway Safety,

4.1.2 Chief of Driver Services,

4.1.3 Driver Improvement Manager or Assistant Manager,

4.1.4 Representative from the Office of Highway Safety,

4.1.5 Division of Motor Vehicle Training Officer.

4.2 Duties. The Committee shall:

4.2.1 Be chaired by the Director of the Office of Highway Safety who shall make recommendations to the Secretary concerning the duties set forth herein:

4.2.2 Review and examine aggressive driving course providers, instructors and prospective providers and instructors to its satisfaction. Recommend certification, denial of certification or de certification of a course provider, instructor, prospective provider and instructors.

4.2.3 Review and examine behavior modification/attitudinal driving courses and shall further monitor courses to ensure each course continues to meet the Committee's minimum requirements, as outlined in the Regulation. The Committee may recommend amendments to course requirements contained in this Regulation that may be adopted by either amending this Regulation or by a letter signed by the Secretary.

4.2.4 Establish a schedule of fees for enrollment in the course, which shall not exceed the maximum fine imposed per 21 **Del.C.** Section 4175A(c) for those convicted of a first offense and subsequent offenses for aggressive driving.

4.2.5 Annually certify approved course providers and individual instructors when the course provider/instructor continues to meet the requirements of this Regulation; and

4.2.6 Conduct any other activity reasonably related to the furtherance of its duties.

4.2.7 Designate alternative courses to comply with the requirements of 21 **Del.C.** Section 4175A, if no acceptable vendor applies for certification for a course.

5.0 Provider Certification Requirements

5.1 Each course provider shall submit for approval a written course description for any behavior modification/attitudinal driving course to be offered that minimally includes the following elements:

5.1.1 the course curriculum and any handouts, texts and other material used in the course.

5.1.2 Inform the Committee as to how their curriculum is designed to induce positive changes in attitude and driving behavior in persons identified as problem drivers. The provider will discuss those psychological principles used in the course to change behavior (such as B. F. Skinner's "Behavior Modification" studies, William Glasser's "Reality Theory", programs developed for juvenile or first time offenders generally known as "Scared Straight." programs).

- 5.1.3 If available, the provider may submit studies that substantiate that their course curriculum has improved the student's driving behavior as a result of completing their course as taught in Delaware or in any other jurisdiction.
- 5.1.4 Provide a profile of the company's organizational capabilities and a detailed description of its experience relevant to providing the proposed course of instruction. The provider must have at least five years experience conducting in class driver training programs such as initial and advanced driver training course, license upgrade training, rehabilitation training, defensive driving course or behavior modification courses.
- 5.1.5 Assume all costs of the behavior modification/attitudinal driving course of instruction including classroom facilities in each county, training costs and payment of employee wages. The State of Delaware will not reimburse the provider for any costs.
- 5.1.6 Specify where the classes will be taught in each county. If available, the provider may request the use of classroom space, at no cost, in the Division of Motor Vehicles facilities. The classroom space must be accessible to drivers with physical disabilities and in compliance with the Americans With Disabilities Act of 1990. The Committee reserves the right to reject the use of any facility it deems unfit for classroom instruction.
- 5.1.7 The provider must be able to conduct at least one class per month at a location deemed convenient for a majority of the participants. At least one class will be taught each quarter. The class size should not exceed thirty students.
- 5.1.8 Assess a reasonable and uniform fee for the course as established by the Committee in accordance with 21 **Del.C.** Section 4175A(d). The provider must arrange a payment schedule for offenders who are unable to pay the course in a single payment. The provider is responsible for any costs associated with the collection of checks drawn on insufficient funds or on unpaid registration fees. The provider may withhold the certification of course completion until all fees are paid in full.
- 5.1.9 Maintain records relevant to the behavior modification/attitudinal driving course and its participants. As a minimum, the provider must retain for at least three years the class locations, times, number of participants and the names, driver license numbers and date of birth of those completing and those failing to complete the course. Department of Public Safety officials will have access to these records for the purposes of monitoring trends and evaluating the effectiveness of the course. The providers must have the capacity to access and update the Department of Public Safety's Aggressive Driver Tracking System.
- 5.1.10 Require each student to receive a minimum of eight hours of classroom training. Each hour shall consist of not less than 50 minutes of instructional time devoted to the presentation of the course curriculum. The instructors will maintain an atmosphere appropriate for class work and present the course in a manner consistent with the approved curriculum and otherwise in accordance with the standards set forth herein. The instructors will be in the classroom with the students during any and all periods of instructional time.
- 5.1.11 Supply students who complete the behavior modification/attitudinal driving course with a certification of completion that includes, at a minimum:
 - 5.1.11.1 The student's name, date of birth, driver license number and address, and
 - 5.1.11.2 The date of the class, the name of the provider, title of the course completed and the course sponsor's authorized signature.
- 5.1.12 Require that each student fill out a standardized Course/Instructor Evaluation Form, as designated by the Committee, upon completing the course. The provider will retain one copy of this form for three years and one copy will be sent to the Committee.
- 5.1.13 Provide in service training or other training session for all instructors, regarding behavior modification/attitudinal driving courses.
- 5.1.14 Notify the Division of Motor Vehicles of each student's successful completion of the course in the manner and form required by the Division. Upon request, the provider will inform the Division when a student has not successfully completed a required course.

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6.0 Basic Instructor Requirements

- 6.1 Each instructor shall:
- 6.1.1 Be at least 18 years of age;
 - 6.1.2 Be a high school graduate or have a G.E.D
 - 6.1.3 Hold a valid driver's license with no more than 6 points, no suspensions or revocations in the past two years; and
 - 6.1.4 no felony convictions during the past four years and no criminal convictions evidencing moral turpitude. The Committee reserves the right to require a criminal history background check of all applicants for an instructor's certification.

7.0 Course and Instructor Re-Certification Procedures

- 7.1 Annually the provider shall
- 7.1.1 Submit evidence that their instructors have taught the certified course a minimum of 8 hours in the previous calendar year;
 - 7.1.2 Submit evidence that the instructor attended an in service update training seminar, or other training session, as provided by, or specified by, a certified behavior modification/attitudinal driving course provider; and
 - 7.1.3 Certify that the instructors continue to meet the instructor requirements as outlined in this Regulation.
 - 7.1.4 When the Committee initially certifies a provider and their instructors, they will be given a one year contract. The provider must apply for re certification by December 31 every year. The Committee will send out application renewal requests in October. The providers must complete the renewal applications and return them to the Committee between November 15 and December 31. The Committee will re certify or deny re certification by January 31.

8.0 De-Certification, Suspension And Probationary Status

- 8.1 Course providers and instructors may be de certified, placed on probation for not more than 90 calendar days, or have certification suspended indefinitely upon a finding of the Committee that the course presented does not meet the criteria set forth in this Regulation. The Committee shall direct investigations relating to the issues of compliance.
- 8.2 Prior to de certification, placement on probation or suspension of certification, the Committee shall notify the course provider/instructor, in writing. The course provider/instructor shall be given a reasonable opportunity to submit evidence of compliance in their defense.
- 8.3 A course provider/instructor who is placed on probationary status and does not show proof of compliance with the standards set forth herein within 90 calendar days shall be subject to de certification at the end of the probationary period.
- 8.4 Course providers/instructors may be de certified, suspended or placed on probation for the following:
- 8.4.1 Submitting false information in or with the Application for Certification/re certification;
 - 8.4.2 Falsification of, or failure to keep and provide adequate student records and information as required herein;
 - 8.4.3 Evidence that the course is not effective in changing the driving behavior of those problem drivers who complete the course;
 - 8.4.4 Falsification of, or failure to keep and provide adequate financial records and documents as required; and
 - 8.4.5 Failure of any provider or instructor to comply with the standards set forth in this Regulation.

9.0 Appeal Procedures

- 9.1 Within 10 business days after the date of written notification of certification denial, suspension, probation or de certification, the course provider/instructor may file an appeal requesting a review of the action taken.
- 9.2 The appeal shall be addressed to the Committee, citing the reasons for the request, and accompanied by any other relevant substantiating information.
- 9.3 The Committee shall conduct all hearings pursuant to Title 29, Chapter 101 of the **Delaware Code**.